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August/September 2001

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Why George W. Bush's education reforms won't work

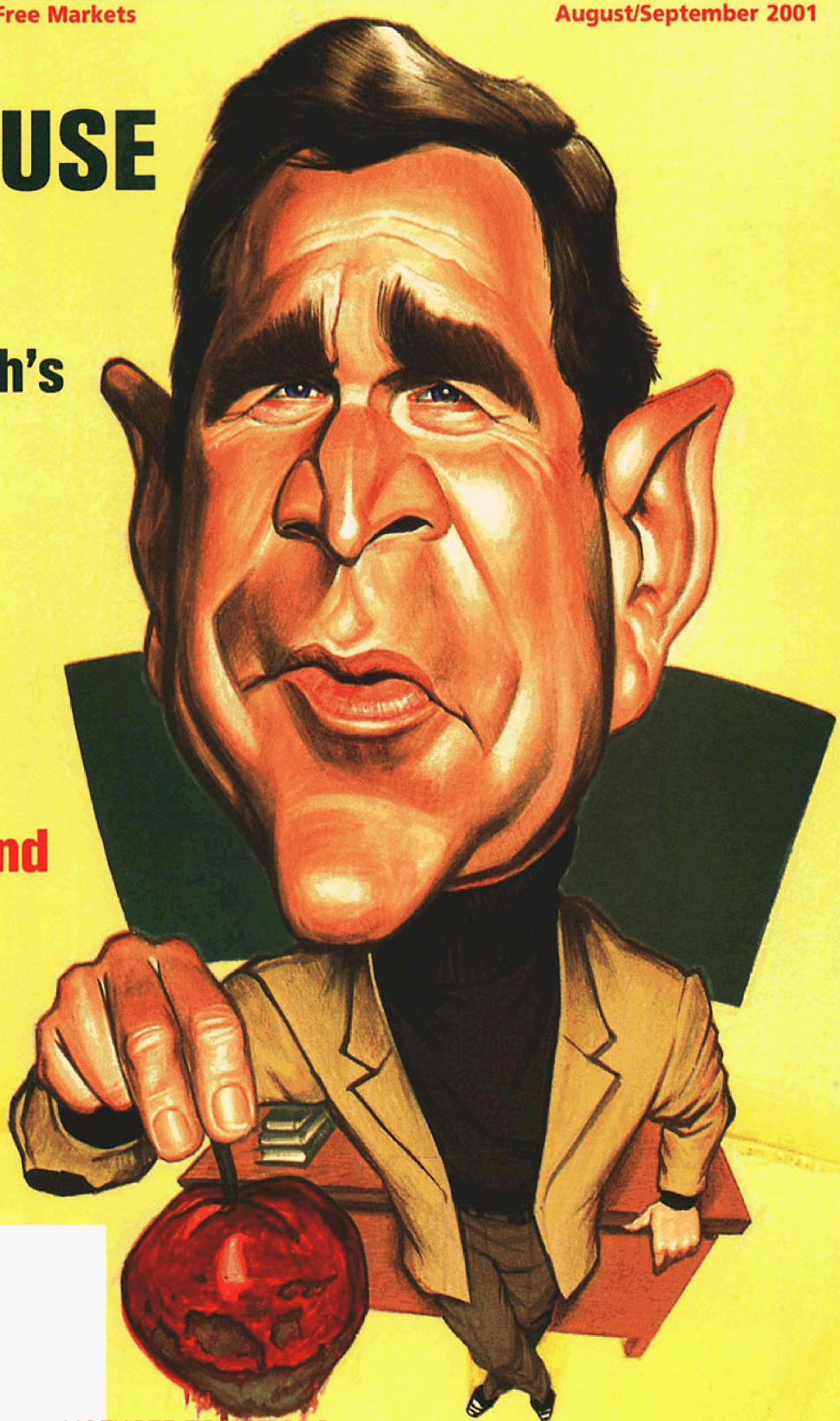
By Lisa Snell

THE ROOTS OF RACIAL PROFILING

By Gene Callahan and William Anderson

SEX & THE CENSUS

By Cathy Young



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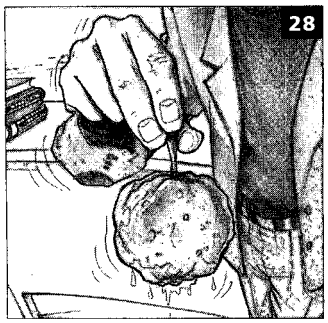

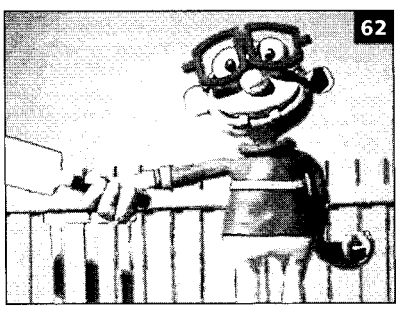

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Left to right: Daniel Klein, David Friedman, Laurence Iannaccone, Henry Demmert, and Fred Foldvary.

To learn more about the Civil Society Institute and Santa Clara University:

CSI Directors: Daniel Klein **dklein@scu.edu**

Laurence Iannaccone **liannaccone@scu.edu**

Civil Society Institute Web site: **www.scu.edu/csi**

Santa Clara University Web site: **www.scu.edu**

REASON
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Editor-in-Chief
Nick Gillespie *(gillespie@reason.com)*
Senior Editors
Charles Paul Freund *(cpf@reason.com)*
Jacob Sullum *(jsullum@reason.com)*
Associate Editors
Brian Doherty *(bdoherty@reason.com)*
Christopher Hull *(chull@reason.com)*
Jesse Walker *(jwalker@reason.com)*
Washington Editor
Sam MacDonald *(smacdonald@reason.com)*
Assistant Editor
Sara Rimensnyder *(sarar@reason.com)*
National Correspondent
Michael W. Lynch *(mwlynch@reason.com)*
Science Correspondent
Ronald Bailey *(rbailey@reason.com)*
Editor-at-Large
Virginia Postrel *(vpostrel@reason.com)*
Editorial Assistants Robert Honrado, Mary Toledo
Art Director Barb Burch *(bburch@reason.com)*
Webmaster Brian J. Taylor *(webmaster@reason.com)*
***Reason Express* Writer** Jeff A. Taylor *(jtaylor@reason.com)*
Contributing Editors
Peter Bagge, Gregory Benford, James V. DeLong, Glenn Garvin, Steven Hayward, Thomas W. Hazlett, David R. Henderson, John Hood, Alan Charles Kors, Brink Lindsey, Carolyn Lochhead, Loren E. Lomasky, John McClaughry, Deirdre N. McCloskey, Michael McMenamin, John J. Miller, Charles Oliver, Walter Olson, John J. Pitney Jr., Thomas Szasz, Frederick Turner, Martin Morse Wooster, Cathy Young
Cartoonists
Chip Bok, Henry Payne, Scott Stantis

Publisher Mike Alissi *(malissi@reason.com)*
Circulation Director Alyssa Garey *(agarey@reason.com)*
Assistant Publisher Michael Orendy *(michaelo@reason.com)*
Legal Adviser Don Erik Franzen

Editorial and Production Offices
3415 S. Sepulveda Blvd., Suite 400
Los Angeles, CA 90034-6064
310-391-2245 Fax: 310-391-4395
Washington Office
1717 Pennsylvania Ave., NW, Suite 260
Washington, DC 20006
202-955-1324 Fax: 202-955-3187
Advertising Sales
The Townsend Group, Inc.
4920 Elm St., Suite 325
Bethesda, MD 20814
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Editor's Note

As the father of a child who just completed the first grade, I can attest that few things are more stress-inducing than turning your child over to a school for long days of instruction. Part of this is unavoidable: One of the defining aspirations of American education, whether public or private, is to inculcate independent thought and critical analysis. If all goes according to plan, your child will develop his own mind, his own thoughts, his own talents and priorities, many of which will have little or nothing to do with parental wishes and desires. Indeed, what most parents want out of education is not a child who has been molded to fit their preconceived plans, but one who will return home from college with the skills to tell his parents exactly why there's no way in hell he's going to study to be a doctor, a lawyer, or an accountant anymore. That's a successful conclusion to an American education, and it's easy to see why the process inevitably inspires a good dose of parental anxiety.

But a large measure of concern over schools comes from a very different source, one that both can and should be remedied: the inability of parents—especially low-income parents—to pull their kids out of mediocre and failing schools. In "Schoolhouse Schlock" (see page 28), education analyst Lisa Snell writes of her problems enrolling her son in her local public school. She also details exactly how the major federal program designed to help low-income children, Title I, has done precisely nothing to improve schools. More distressingly still, Snell lays out why George W. Bush's much-ballyhooed education plan, which will give more money to failing schools and institute nationwide testing, will likewise have no effect.

Why? Simply put, because it doesn't increase choice. It doesn't give parents the one thing that matters in any consumer situation: the ability to take your business elsewhere. Without that spur to efficiency, schools will never be responsive.

The theme of choice energizes two other stories in this issue. "Old Law vs. the New Economy," by James V. DeLong (see page 44), explores how labor legislation from the New Deal era is stymieing the sort of individually tailored job situations that would benefit workers at all levels. "The free agent universe of the visionaries," writes DeLong, "is resisted by the labor and tax bureaucracies." It's going to take a lot of time and energy to win that battle. Jesse Walker's fantastic tour of alternative film communities ("Beyond Miramax," page 62) demonstrates what creative people can do with choice that's enabled by cheap technology and new distribution networks. The short answer: pretty much anything they want. Which is an outcome worth fighting for in education and the workplace.

—Nick Gillespie

Arts & Letters Daily

k of markets as rock, paper, and scissors. If I know you'll scissors, I'll be rock. But once you know that, you'll play r. **But if I know that you know I know**... [more]

art didn't create his lucid music merely by letting it all out: he was rigorously and relentlessly trained. As for **'s so-called geniuses**... [more]

ervatism: forty years ago no politician since the age of er had uttered the word without contempt. Then along **Barry Goldwater**... [more]

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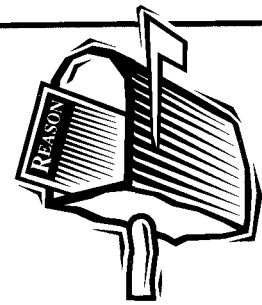
Contributors

Contributing Editor **James V. DeLong** writes persuasively in this issue that outmoded labor regulations are hampering the shift to far more flexible workplaces for most Americans. (See "Old Law vs. the New Economy," page 44.) The 62-year-old DeLong has worked in a lot of different settings over the years: a law firm in Los Angeles, the precursor to the U.S. Office of Management and Budget, and the Federal Trade Commission, to name only a few. These days, he's a senior fellow in the D.C.-based Competitive Enterprise Institute's Project for Technology and Innovation. Having worked for many years as a freelance writer and policy analyst, DeLong also has a fully decked-out home office that he would like to use more often. "Ironically, I don't telecommute, though I would prefer to," he says.

Economist **John R. Lott Jr.** and physicist **Robert Ehrlich** squared off in REASON ONLINE's first-ever debate, which is reprinted in this issue along with some additional material. (See "The Great Gun Fight," page 52.) The debate focuses on the effect of liberalized concealed-carry gun laws on violent crime rates. Though Lott, author of the influential *More Guns, Less Crime*, and Ehrlich, author of the new *Nine Crazy Ideas in Science*, disagree on that topic, they've got this much in common: They're both gun owners. The 63-year-old Ehrlich, whose main academic area of study is particle physics, is the proud owner of a rifle that he uses for occasional target practice. The 43-year-old Lott explains that he and his wife bought a weapon only after he'd started his gun research and became convinced that it was a good idea.

"I grew up out in the sticks in the northwest corner of Georgia," recalls Contributing Editor **Charles Oliver**, who in this issue reviews two very different books about the role of slavery in the South. (See "Southern Nationalism," page 77.) "I find the attempt to minimize the role of slavery both in antebellum Southern society and as a cause of the Civil War pretty loathsome. I understand why some people might not want to deal with it, but if you don't grapple honestly with the past, you can't deal honestly with the present, either." The 37-year-old Oliver, who majored in political philosophy at the University of Georgia, has a master's degree in economics from Virginia's George Mason University, where he studied under another Southerner, Nobel laureate James Buchanan. In 1988, Oliver moved to Los Angeles to take an assistant editor job with REASON, where he wrote often about civil liberties, environmental matters, and popular culture. In 1993, he joined the staff of *Investor's Business Daily*, where he reports on economic issues.



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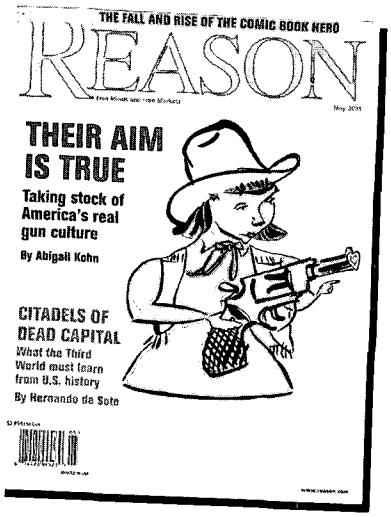
THE FALL AND RISE OF THE COMIC BOOK HERO
REASON
THEIR AIM IS TRUE
Taking stock of America's real gun culture
By Abigail Kohn
CITADELS OF DEAD CAPITAL
What the Third World must learn from U.S. history
By Hernando de Soto

On Target

I wanted to thank Abigail Kohn for her delightfully refreshing exposé of the "gun culture" ("Their Aim Is True," May). Though I was not technically raised in the gun culture, I was exposed to shooting and hunting by my grandfather. I'm fascinated by the clever mechanical engineering of today's firearms, and also with the wisdom of our founding fathers in crafting the Second Amendment.

I'm not really a hunter—I feed the deer in my backyard about 150 pounds of corn a week—but I take considerable pleasure in developing the skills involved in shooting accurately. Though I've yet to explore Cowboy Action Shooting, I have been dabbling in International Defensive Pistol Association activities, which provide definite skill-building and camaraderie.

In my experience, those involved in shooting sports are as heterogeneous a group as can be imagined. I've tried to explain my interests to my more liberal friends. But they've managed to so thoroughly demonize lumps of metal and wood that they just can't begin to understand. I intend to share your piece with those skeptics, and see if your eloquent and—forgive me—*disarming* approach might work where mine failed.

Peter P. Henry
Spearfish, SD

Abigail Kohn's article is the most well-written discussion of the "gun culture" that I have ever read. I am a second-year student at the University of Virginia School of Law, and I wish I could get my classmates to read it. I was in the military for almost eight years and attended an undergraduate institution in Kansas, so I was quite surprised at the open hostility I faced in law school once it was discovered that I owned guns.

To make matters worse, my fellow students seemed disgusted that I was a National Rifle Association member and taught firearms instruction at the local range. I had a very difficult time going from an environment where all of my closest friends were fellow gun enthusiasts to one where guns were thought to be inherently evil. Kohn's article confirmed that my friends and I aren't as abnormal as the up-and-coming lawyers at my school believe. I look forward to reading her book on American gun enthusiasts.

Bill Zawrotny
Charlottesville, VA

I read Abigail Kohn's article with interest, surprise, and enjoyment. I got out of a highly specialized Navy unit in 1971, convinced that, having survived the Vietnam war, I wasn't ever going to need a weapon again. Unfortunately, the United States was a more dangerous place for me than Vietnam. It is a perfect irony that the only time I've ever been hit by a bullet was in Aspen, Colorado—the Mecca of rich Berkeley refugees.

I promptly rethought my distaste for weaponry, and got into combat pistol shooting, which I've now been practicing for about 25 years. Among other things, I found it to be a great diversion from the stress involved in surviving law school. In terms of stress reduction, I found it to be slightly better than martial arts and not quite as good as distance swimming.

Recently I've become hooked on "clay" shooting—trap, skeet, and sporting clays. There's something completely satisfying about blowing a clay frisbee out of the sky, knowing you have been able to get out into the sun and fresh air, generate some noise, exercise a skill, and harm no living thing.

There are a large number of subcultures within the larger "gun culture" the author describes. There are the folks who shoot race guns, combat shooters, extreme-accuracy riflemen, black-powder enthusiasts, full-auto people, and hunters, among others. I am grateful that Kohn's essay informed non-shooting readers of the attractiveness of at least one element of this community, along with the fact that its participants are more-or-less sane people.

David Richmond
Los Angeles, CA

"Their Aim Is True" discusses a segment of gun enthusiasts who are perfectly good citizens. But what of the irresponsible segment, consisting of thieves, kids, and others who feel that guns give them power and control over everyone else? What of the mentally ill who kill without social consciousness?

Handguns have no place in a civilized society. Rifles and shotguns can be justified for pleasure and hunting, but handguns only have one purpose—to kill people—and for that reason should be banned or at least regulated. The government through the Second Amendment should not be sanctifying murder.

Lou Stadlin
Hampton, VA

REASON NEWS

This is our annual double issue. The next issue you receive will be dated October.

Dead Capital

Hernando de Soto's interpretation of frontier America ("Citadels of Dead Capital," May) would be admirable for its simplicity if it did not also distort the record. The capital that was "created" was the untapped, readily exploitable natural wealth of a continent whose previous "owners" were subdued by military force.

The 19th-century laws that evolved to codify extra-legal settlement in the United States arose less from accommodation than from the machinations, philosophies, economic competition, and protectionism of political factions in the developed regions—particularly the North-South schism.

Even the improvised mining laws that the author praises were notoriously deficient. They allowed speculators to tie up resources, novices to squander them, and lawyers to prosper from a tsunami of litigation that was only partially tamed by subsequent federal legislation. Finally, after laws and surveys made possible the acquisition of title, the frontier experience hovered at a Third World subsistence level until massive infusions of capital, much of it federal and foreign, provided expensive infrastructure and market access.

In order to be useful, historical lessons must be carefully crafted.

John Walker
Coaldale, CO

Tragic Heroes

What a wonderful essay by Brian Doherty ("Comics Tragedy," May). And how ironic: a literary commentary on meta-commentaries on a literary form that has long been regarded with scorn.

I once read a book about science fiction as a literary genre called *Science Fiction, Today and Tomorrow.* It pointed out that few novels have been acknowledged as both genuine science fiction and serious literature. Yet it also argued that science fiction serves as the morality play of our time. It gives us a safe distance from which to view ourselves, often as a culture.

Superheroes can do that, but they can also provide us with insight into ourselves as individuals. What better way to examine what values should guide us if we could remove all of the fears and needs of survival?

Dale Gulledge
Penfield, NY

I greatly enjoyed Brian Doherty's article. I've read comics since my mid-teens, when I was re-introduced to them through non-mainstream titles like *Elfquest* and *Mage.* Along with *Watchmen,* there were other titles coming out in the early '80s that started breaking the rules about superheroes. These include the first dozen installments of *Elementals,* which gradually lost its originality as it grew more mainstream, and *The Tick,* which was devilishly good at making fun of the superhero genre.

But Doherty didn't mention *The Sandman*—perhaps the greatest mainstream attempt to break with the standard comic book and push into the realm of literature. I consider it one of the grandest fantasy stories written since *The Lord of the Rings.* It has the largest following of non–comic book readers ever.

Allen Bagwell
Tacoma, WA

As a reader of comic books who went on to graduate Phi Beta Kappa with a degree in English literature, I stand up as an example of someone who didn't become illiterate from reading the stuff.

That said, I don't read U.S. comics anymore. I still like graphic storytelling but resent the focus on superhero stories that strangles the genre here. Fortunately, we're not the only country in the world that produces comics. The United States is not even close to being the industry leader, in terms of dollar value of the product, number of readers, diversity of subject material, or any other metric you care to name.

Japan leads. If you yearn for comics but find the U.S. industry stagnant, look to the land of the rising sun. The Japanese *manga* industry is immensely profitable, diverse, and enthusiastic. Regrettably, a lot of manga is unavailable in translation. Producing English versions isn't easy and the market isn't huge.

A few companies do it anyway. Viz Communications is currently doing Akimi Yoshida's *Banana Fish,* a *shoujo* (for girls) manga with gangs, drugs, guns, assassination, the Corsican Mafia, the Chinese Mafia, and assorted other girlish topics. It's a mystery with a sprawling plot, huge cast, shifting alliances—an engaging read.

Jessica U. Gothie
Breezewood, PA

"Comics Tragedy" is a very thoughtful essay on the cultural implications of American comics, but I must differ with Doherty on a peripheral point, which happens to be in my field. He writes, "Look at the fate of another form of pop entertainment...radio drama. There was no unique thing that it provided better than any other art form, and it died."

Radio drama is unique in that it is a theater of the mind's eye. The imagination of the listener is an important component of the art form: "I saw it on radio." Radio drama is still thriving in many parts of the world. It is the people's theater. Everyone has a radio.

Why radio drama in America died is open to numerous interpretations. Talent and money went to the more glamorous and remunerative media—TV and films. At that time, radio drama was fairly expensive to produce.

New technologies have made production inexpensive and easy. Experienced senior actors would be thrilled to perform on radio. The radio industry, which is currently very profitable, owes it to the American public to broadcast drama. The Writers Guild of America East is leading a campaign to make short radio drama a regular feature on commercial and public dials in the United States. Please stay tuned.

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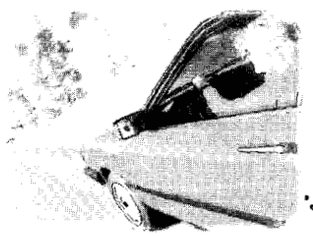

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Citings

Rave Rage

By Jacob Sullum

Despite all the pot and LSD consumed at their concerts, no one ever tried to ban the Grateful Dead. But that's what the city of Chicago would like to do to raves, those all-night dance parties featuring electronic music, flashing lights, and silly hats.

The *Chicago Tribune* anxiously describes raves as "one-night-only parties ... often held in warehouses or secret locations where people pay to dance, do drugs, play loud music, and engage in random sex acts." Taking a dim view of such goings-on, the Chicago City Council recently approved an ordinance that threatens building owners and managers who knowingly allow raves on their property with jail terms of up to six months. "They are after all our children," Mayor Richard Daley declared. "Parents should be outraged."

State legislators agree. The Illinois House of Representatives is considering a bill that would make it a crime to promote a rave where illegal activity takes place. According to the *Tribune*, the bill's supporters are "fine-tuning" their definition of a "criminal rave" so the legislation can "withstand a court challenge."

In New Orleans, meanwhile, the U.S. government is prosecuting a rave promoter and a concert hall manager under a federal law aimed at shutting down crack houses. Facing up to 20 years in prison if convicted, the defendants argue that the prosecution is a form of censorship.

"Holding club owners and promoters of raves criminally liable for what some people may do at these events is no different from arresting the stadium owners and promoters of a Rolling Stones concert or a rap show because some concert goers may be smoking or selling marijuana," says Graham Boyd, director of the American Civil Liberties Union's Drug Policy Litigation Project. "If the government is successful in shutting down raves, what's to stop them from applying this tactic to other music genres...where drug use is known to exist?"

Mayor Daley is reportedly fond of jazz. Fortunately, *that* genre has never been associated with drugs.

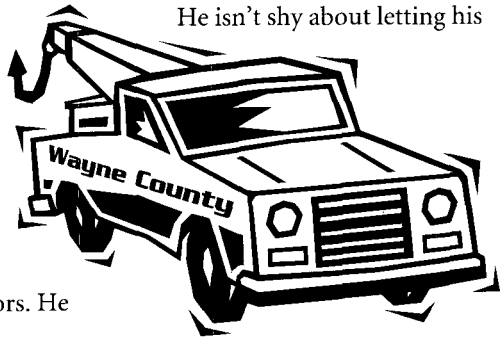
Wages of Vice

By Michael W. Lynch

Motor City's working girls aren't the only people making a bundle off those looking for love in all the wrong places. According to the *Detroit Free Press*, Wayne County's 153 prosecutors are slated to divvy up $500,000 in raises that have been funded by the fines alleged Johns pay to get their cars out of impound.

Faced with a declining budget, newly minted Wayne County Prosecutor Michael Duggan put the county's police powers to work for him. He persuaded local politicians to allow him to use proceeds from forfeited and impounded cars to reward prosecutors. He then upped the impound fine on cars seized from Johns to $900—a $250 increase—and discontinued such soft-on-crime practices as giving exonerated Johns their cars back for free.

Duggan expects to triple the county's booty this year. He isn't shy about letting his



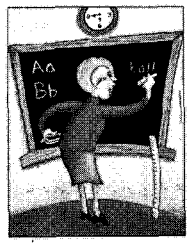
Balance Sheet

By Jeff A. Taylor

ASSETS

▲ Wind Socked. An appeals court beats back the heirs and publisher of *Gone With the Wind* to allow the sale of *The Wind Done Gone* (see "Tomorrow Is Another Day in Court," July), confirming that the right to parody has yet to be consumed by ever-expanding copyrights.

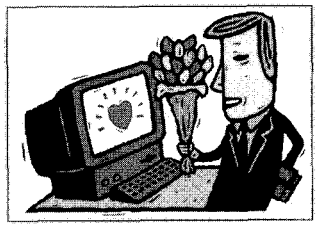
▲ Repo Fans. One man's bust is another man's boom. BMWs, Benzes, and Lexuses: All are fodder for a bustling repossession business in Silicon Valley, proof that the laws of economics have not been repealed.

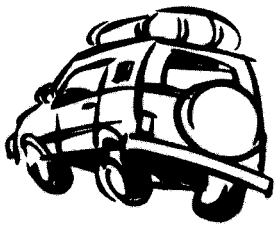


▲ Testing Test. From Massachusetts to Michigan to California, parents and students question public school curricula built around standardized tests that only serve to rank schools and reward teachers. The deluded Business Roundtable rushes out a "Testing Backlash" booklet, mistaking the tests for real metrics. One key difference: Failing schools don't go out of business.

▲ The Chronic. The majority of the testimony before a Jamaican national commission on marijuana favors decriminalizing ganja. The commission's final report to the prime minister is expected to recommend some loosening of the laws.

▲ Online and Upward. Jupiter Media Metrix, a New York-based research firm, finds Web usage continues to ramp up. In March, 107 billion online minutes were measured, compared to 50 billion back in 1999. Four companies—AOL Time Warner, Microsoft, Yahoo, and Napster—accounted for half of all time spent on the Web.





▼ **Car Tracks.** The Firestone vs. Ford battle over faulty tires and crummy Explorers careens into the regulatory state. Firestone runs to the feds, insisting they mount a full investigation of the vehicle.

▼ **Venue Shopping.** U.S. District Judge Matthew Kennelly rules that a Chicago woman who stole nearly $250,000 from her employer to finance a shopping addiction suffered from "a diminished mental capacity" and thus deserves a lesser sentence. Credit card bills of $500,000 were merely an effort to "self-medicate" depression brought on by a distant father.

▼ **Choice Words.** Andre J. Hornsby, president of the National Alliance of Black School Educators, offers his explanation for support among minorities for school choice plans. "Black people can be gullible," he says.

▼ **Blood Type.** Police in Oklahoma conduct a DNA dragnet of 200 men in the search for a murderer. "If you don't want to give your DNA, you've got something to hide," the father of the victim says.

▼ **Drug Gang.** A federal appeals court says Maine can impose price controls on prescription drugs if drug makers refuse to offer a hefty discount for 325,000 uninsured residents. The 1st U.S. Circuit Court's decision will likely spur other states to try the same thing.

LIABILITIES

staff know it's in their best interest to keep impounding cars and other valuables. "All these promotions are possible only because of the extraordinary performance of the forfeiture unit," wrote Duggan in a memo to employees obtained by a *Free Press* reporter. "Some of you are probably going to owe them lunch."

Pupils Wide Open

By Jeremy Lott

Prescription laws, generally regarded as a safeguard for the public, may be facilitating protectionism and price-fixing instead. Attorneys general in 33 states are suing the American Optometric Association for jacking up the price of contact lenses, which are worn by nearly 25 million Americans. They hope to prove that optometrists conspired to fix prices and to limit the release of contact lens prescriptions.

"Optometry is virtually the only form of health care where the care giver actually sells the items he prescribes," according to *Consumers Research.* Eye doctors had faced a considerable drop in income when technology moved the contact lens industry away from specialized lenses to disposables. This shift made mass production possible, taking distribution out of doctors' control.

Through the AOA, optometrists fought back by pressuring manufacturers of disposables to sell lenses only to licensed optometrists, rather than directly to other retailers or patients.

When it comes to soft contacts, companies that mass-distribute the lenses are forced to buy more expensive lenses from wholesalers, instead of directly from manufacturers. And many optometrists won't write a patient a prescription unless he agrees to buy their lenses. Such practices allow eye doctors to mark up lenses between one and five times the cost.

Through the Nose

By Jacob Sullum

An FDA advisory committee has voted overwhelmingly to recommend over-the-counter status for Claritin, Allegra, and Zyrtec, three popular prescription allergy drugs. But the drugs' manufacturers are opposing a switch, fearing that it could ▶

SOURCES

As the fate of polygamist Tom Green is debated in the courts and the media, one shouldn't lose sight of the larger issue his case raises. As Jacob Sullum asked on REASON ONLINE, **Why is plural marriage illegal "in a free society** that tolerates all manner of sexual relationships and living arrangements, in and out of wedlock"? (You can read the rest of Sullum's article at **reason.com/sullum/052901.html.**) Polygamists aren't shy about asking the same question, and you can read their arguments for the practice on such Web sites as **polygamy.com** and **truthbearer.org**. For the other side of the issue, go to **www.polygamyinfo.com**. And for a historical perspective, check out **testdocs.dced.state.ut.us/historytogo/historyofpolygamy.html**.

QUOTE

"As the meaning of Barbara and Jenna Bush's alcohol troubles gets masticated in the press, the key point to bear in mind is the one that most easily gets lost. It's that **there are no customs on Earth more bizarre than America's alcohol laws. When you think of them, think of suttee, foot-binding, and ritual scarification.**"
—Christopher Caldwell, in the *New York Press,* June 5

BRICKBATS

♦ Ryan and Mary King want to become foster parents, but the Utah Department of Human Services has rejected them. Ryan King has a concealed weapons permit, and the agency thinks that violates a state law requiring firearms to be inaccessible to children.

♦ Violent crime is soaring in Great Britain, despite some of the world's strictest gun laws. So now some in the Labour Party want to restrict criminal defendants' access to trial by jury. They also want to end the double jeopardy rule, which prohibits trying a person twice for the same offense.

♦ Schools in Birmingham, Alabama, now test middle and high school athletes for tobacco as well as illegal drugs. If a student fails, he gets a warning and the promise of further tests. A second failure leads to a mandatory anti-tobacco course. After a third strike, the student is suspended from athletic contests.

♦ Earlier this year, faculty at the University of Georgia proposed a campus monument to alumni who died in combat. But some of their colleagues and students rejected the idea, arguing that it would discriminate against women, minorities, foreign students, and other groups that weren't always allowed to serve in the military.

hurt their profits. As over-the-counter remedies, the drugs would no longer be covered by prescription plans; consumers would actually care how much they cost, and the manufacturers would be forced to cut prices.

In the United States, the cheapest online pharmacies sell Claritin for more than $2 a pill; local drugstores charge more. In Canada, where Claritin has been available over the counter since it was introduced there in 1989, pills sell for about 70 cents each. Even if some of that difference is due to other factors, allergy sufferers without drug coverage would clearly gain if the FDA lifted the prescription requirement. And although consumers with prescription plans pay little or nothing for Claritin, Allegra, and Zyrtec at the point of sale, the cost shows up in higher insurance and co-payment rates.

Insurance companies want the drugs to be available without a prescription because then they wouldn't have to cover them. But they have plausibly argued that prescription allergy drugs are safer than many over-the-counter remedies because they don't make you sleepy. Driving under the influence of antihistamines may not be a crime, but it can be just as hazardous as driving under the influence of alcohol.

Manufacturers, meanwhile, can't very well claim that their products are unsafe. Instead they say lifting the prescription requirement would cut doctors out of the loop, depriving consumers of their guidance. Physicians, perhaps worried that fewer office visits will mean less income, are lining up to agree.

Baltimore Blues

By Sam MacDonald

If you live in Baltimore, you may have to face down some city planners soon. The so-called West Side Initiative will use more than $100 million in state and local funds to put upscale residential developments and mixed-use retail in West Baltimore, a neighborhood adjacent to the famed Inner Harbor.

While West Baltimore has always supported a number of thriving businesses—many of them owned by minority families—the area apparently doesn't project the image coveted by Mayor Martin O'Malley and the city establishment. Among the casualties of the West Side Initiative are over two dozen mom-and-pop stores deemed insufficiently upscale.

In effect, residents are being asked to suspend their disbelief. For one thing, they're supposed to forget that a similar government initiative failed to do any-

AUGUST 1976 AUGUST 1976 AUGUST 1976

25 YEARS AGO IN REASON

☛ "Nobody liked General Motors long before they'd ever heard of Ralph Nader—it's part of the whole anti-bigness thing in the American culture. But people like me who are in many ways in a totally spoiled position—I'm paid to sit around and play with symbols and react, you know, effectively to all kinds of symbols. I can work up a big froth over General Motors for far longer periods of time than most of our fellow countrymen, who can only work up very short froths over GM."

—An Interview with Nicholas von Hoffman

☛ "The lesson business has learned [in developing coal on the Crow reservation in Montana] has been unmistakable: It is cheaper to influence the Bureau of Indian Affairs into cajoling tribes to accept cheap terms than to offer tribes fair market value outright."

—Russell L. Barsh, "Ripping off Indian Energy"

☛ "The modern State fails to discharge the elementary duty, which even some despotic states managed to do in the past, [of] protect[ing] its citizens from the force and fraud of each other....The American citizen now walks in his city at night, and not infrequently by day, at his peril."

—Arthur Shenfield, "Must We Abolish the State?"

thing for the same neighborhood in 1980. And they're not supposed to ask whether the government should be subsidizing homes for middle- and upper-class families, who can presumably find places to live easily enough on their own.

The West Side Initiative showcases how complex redevelopment plans can end up sponsoring all sorts of insanity. In order to kick the existing businesses out of the neighborhood, the city agreed to buy them out and relocate them. One of the enterprises belonged to a local entrepreneur named Kenneth Jackson, whose El Dorado Lounge had been a well-known area strip club for more than 25 years. *The Baltimore Sun* reports that in helping relocate the establishment, the city paid Jackson $450,000 for his property, twice what he paid for it just four years earlier. Moreover, in its original version the city's relocation plan would have made the city the strip club's new landlord, leasing it space in a large city building at a rock-bottom price—with an option to buy, no less.

That arrangement fell through, but not before the local press had its fun with the gaffe. Jackson must now find a new venue on his own if he wants to keep the El Dorado open.

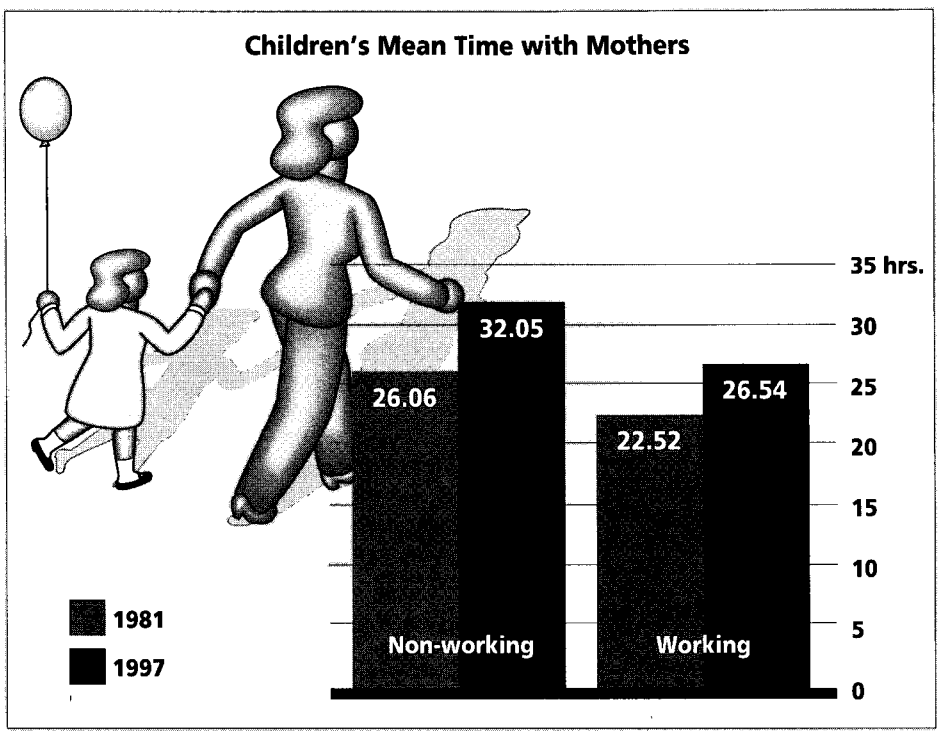
DATA

Kiddie Time

By Michael W. Lynch

It's often assumed that the rush of married women into the workplace over the past two decades came at the expense of time spent with their children. But that's just not so, according to a study conducted by two researchers at the University of Michigan. In fact, working mothers spent more time with their 3- to 12-year-old kids in 1997 than did stay-at-home moms in 1981. So did fathers, whether their wives worked or not.

The result: Children in today's fast-paced America are getting 10 more hours of parental attention each week than they used to. "A lot of popular culture has been saying that we're spending less time with our kids and that it's bad for our children," study co-author John F. Sandberg told *The Washington Post*. "And it turns out we spend more time with them."



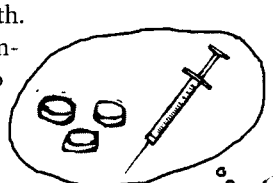
SOURCE: Changes in Children's Time with Parents, 1981–1997, by John F. Sandberg and Sandra L. Hofferth, Population Studies Center, University of Michigan

Bad Timing

By Jacob Sullum

"The Drug War Worked Once. It Can Again." So read the headline above William J. Bennett's May 15 defense of drug czar nominee John Walters in *The Wall Street Journal*. Bennett, the Office of National Drug Control Policy's director from 1989 to 1990, was responding to charges that Walters, his former deputy, overemphasizes law enforcement and gives short shrift to "treatment and prevention." Walters' approach to drug policy, argued Bennett, is the same one that worked so well in the 1980s.

His evidence comes from two annual surveys sponsored by the federal government. In the 1979 National Household Survey on Drug Abuse, 14.1 percent of respondents said they'd used illegal drugs during the previous month. That number fell to 5.8 percent in 1992, then started going up, hitting 6.7 percent in 1999, the last year for which data are available. The Monitoring the Future Study shows a similar pattern: The share of high school seniors reporting past-month drug use fell from 38.9 percent in 1979 to 14.4 percent in 1992 before climbing to 26.2 percent in 1997; last year it was 24.9 percent.



Bennett's interpretation is that Reagan and Bush were tough on drugs, so drug use declined; Clinton was soft ▶

BRICKBATS

◆ Afghanistan's ruling Taliban has ordered its Hindu residents to wear labels distinguishing themselves from the Muslim majority. Hindu women must also wear veils in public. The Taliban say the rules are there only to protect Hindus from abuse.

◆ New Jersey Rep. Marge Roukema has introduced a measure chastising TV shows such as *The Sopranos*. The Republican has seen only one or two episodes of the show, but she wants the entertainment industry to "stop the negative and unfair stereotyping of Italian-Americans," adding that "there was never any truth to the misinformation that Italian-Americans love *The Sopranos*." The same day, the show debuted to strong ratings in Italy.

◆ Officials grant access to public records only about half the time, according to a survey by Maryland newspapers. Sheriff's and police departments are the worst offenders, followed by the Motor Vehicle Administration. And though state law says that document seekers can't be asked for identification or questioned about why they want the info, officials asked for the inquirer's name about half the time. One-third of those seeking records were asked about their motives.

—Charles Oliver

on drugs, so drug use went up. Since drug arrests and drug control spending rose to record levels under Clinton, the premise that his administration was lax in this area is questionable.

In any case, both surveys show illegal drug use peaking in 1979, two years before Reagan took office. And although the upswing measured in the two studies does coincide with the beginning of the first Clinton administration, the survey of high school seniors indicates that drug use among teenagers started to fall again in 1998, three years before George W. Bush took office.

Murder at the Docks

By Sara Rimensnyder

Ships and the open sea have inspired any number of memorable icons and motifs: the grizzled sea captain, the enterprising stowaway, the stormy below-deck love affair, among others. But consider a less-recognized character: the maverick yacht builder, who shirks classrooms and takes his skill straight to the water.

Phil Bolger has been designing and building small vessels for 50 years, in the Massachusetts port town of Gloucester. He doesn't have a license or a degree, just a reputation for seaworthy boats of ingenious design. But a movement toward specialized licensing exams could limit his access to an industry that's traditionally been open to anyone with the talent and dedication to learn through informal, though exacting, means.

The Society of Naval Architects and Marine Engineers (SNAME) began working to develop a national test for nautical engineering licensure almost a decade ago. They've now persuaded 40 states to offer it, though so far only Washington state requires it. Most of the stated motives for creating the exam involved practical concerns: SNAME reps say that, among other things, a nationwide test eliminates the problem of patchwork state rules and helps speed up the Coast Guard's design review process. The Coast Guard must approve the plans of all vessels licensed to carry passengers for hire.

But such concerns are alien to small-boat designers, those who work on vessels far smaller than naval destroyers and gargantuan cruise ships. They live on their reputations as reliable builders. Nevertheless, if licensing becomes mandatory—an end Bolger and others suspect SNAME will seek—small boat designers could be penalized.

Susanne Altenburger, Phil Bolger's wife and design assistant, notes that public safety has been more than adequately protected by regulating the product end of the industry. She stresses that boat-building isn't like other industries: "Very little can be hidden buried under concrete, inside tires, or in food-processing."

There's one possible silver lining: The one state that has such a law seems queasy about enforcing it. In Washington, many unlicensed designers are still working without reprisal. The law makes no exemption for those who build small boats, but not every state regulator classifies their work as "engineering."

The Price of Legislation

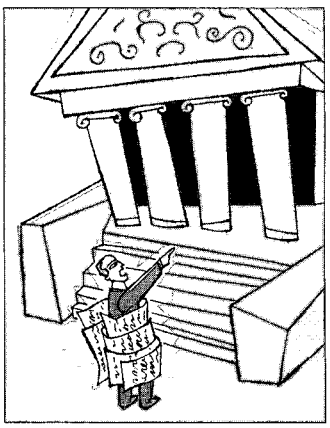
By Charles Paul Freund

It's said that ignorance of the law is no excuse for breaking it. But what if you have to pay dearly to find out the law in the first place?

If you live in the United States, then you are bound in some way by laws or professional regulations that are publicly enforced but privately owned. Portions of building codes and fire regulations in every U.S. jurisdiction were devised by private organizations, who have retained the copyright to the legislation. Citizens must obviously abide by these laws, or face punishment. But if those same citizens want a copy of the laws that control their behavior, they must *buy* their copy, sometimes at an impressive price.

How long has this been going on? Actually, for 75 years. But the situation started making news in 1998, when a man named Peter Veeck set out to rehabilitate an old building in Denison,

Texas. After Veeck shelled out $300 for his copy of the 1,000-page state building code he was bound to obey, he posted the whole thing on his Web site as a community service. Veeck was soon threatened by the nonprofit Southern Building Code Congress, which accused him of stealing its law. An attor-



ney for the SBCC, Robert J. Veal, recently compared Veeck to Napster. "It's all the same," Veal told *The San Diego Union-Tribune*. "They've done the creative work, and now someone says, 'I ought to be able to take it because it's there.'"

Veeck, who told the *Union-Tribune*, "I was brought up in school to believe the law was public domain," hired a confident lawyer and took the matter to court. Legal academics are on his side—more than 30 have filed briefs on his behalf—but the courts aren't. He's lost twice, once in federal court, and once before an appeals panel that voted 2–1 against him. His case is now before the 5th U.S. Circuit Court of Appeals.

Defenders of privately owned laws argue that, without such things, no one would have the incentive to update building codes, fire-safety regulations, and the like. The construction industry decided in the 1920s to write updated regulations for its work that governments adopted at no charge, allowing such umbrella groups as the SBCC to retain copyright. That group expects to realize nearly $7 million from the sale of its laws over the next decade.

The federal government recently decided to privatize more of its laws as well. As a cost-cutting move, federal agencies have been under standing orders from the Office of Management and Budget for three years to make as much use of privately owned regulations as possible.

SOUNDBITE

Free to Grow

By Nick Gillespie

Robert Lawson

Which country has the most economic freedom? That's the question economists James Gwartney of Florida State University and Robert Lawson of Capital University set out to answer each year in *Economic Freedom of the World*. Published by Canada's Fraser Institute, the latest edition, which tracks nations through 1999, is out and available online at www.freetheworld.com.

Gwartney and Lawson, who were assisted by American University's Walter Park and Florida State grad student Charles Skipton, analyze data collected from dozens of international sources to rank 123 countries on measures including the size of government, top marginal tax rates, interest rate controls, and the freedom of citizens to use alternative currencies. Topping their list is Hong Kong, followed by Singapore and the U.S. Rounding out the bottom are Syria, Uganda, Russia, and Myanmar.

REASON Editor-in-Chief Nick Gillespie spoke with Robert Lawson in early June.

Q: Over the past decade, has there been a general gain in economic freedom?
A: Yes. In an absolute sense, most countries are improving—there has been a worldwide binge in cutting marginal tax rates, for instance. Economic freedom correlates strongly with higher incomes, economic growth, and increased standards of living. Standing pat in this environment is like going backward, which is one reason Mexico has dropped from a 35 ranking to a 62 ranking over the past decade; it didn't really do that much to liberalize its economy. Ireland, on the other hand, actually cut the size of its government—and now has the fastest-growing economy in Western Europe.

Q: How do countries free up their economies?
A: Some countries, such as Singapore and Chile, did it through autocratic dictates. Others, such as Ireland and New Zealand, did it through democratic means, which is gratifying for those of us who worry about dictators. At least in relatively small democracies, it seems that economic freedom can come as a result of legislatures, rather than being forced by strong men.

Q: Does your research support the idea that economic freedom is necessary but not sufficient for political freedom?
A: If you look at the whole world, there's no question that, overall, economically free countries have more political freedom, too. Economic freedom, however, is only one measure of freedom. In the long run—as long as 50 years, say—economic freedom definitely bolsters political liberties, though the transition can be pretty ugly.

Economically free people get rich, and rich people demand political rights—freedom of speech, a legitimate legal system, and the like. Look at Taiwan and South Korea, for instance. They opened up their economies first. Then as they got wealthier, they transitioned to a relatively freer political environment, too. The transition wasn't easy—they went through very difficult periods, with riots in the streets. But they did it eventually. Even as repressive a place as Singapore will have to increase political freedom if it wants to stay rich.

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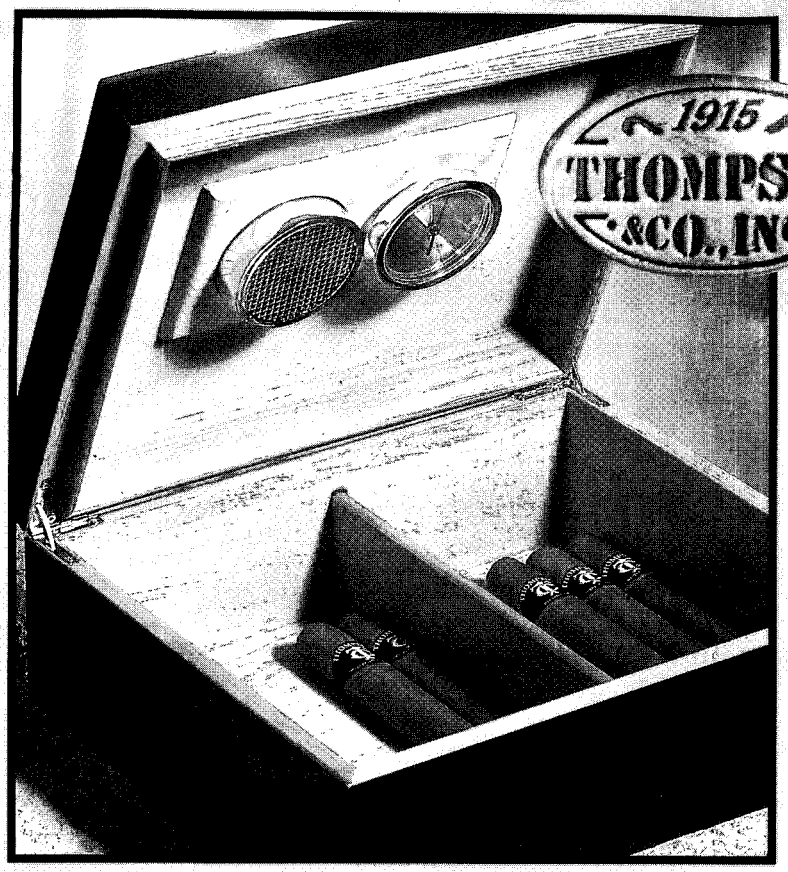

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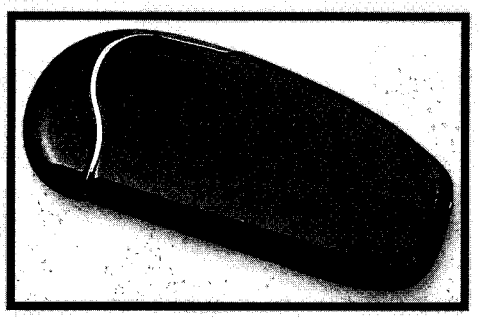

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Michael W. Lynch

Check's in the Mail

How the tax cut went from impossible to inevitable

Shortly after this double-issue lands in your mailbox, so too will a check from the federal government, ranging from $300 for singles to $600 for married folks. It's not a gift from the feds—it's your money, the result of a new 10 percent tax bracket. It's an income tax cut, effective this year.

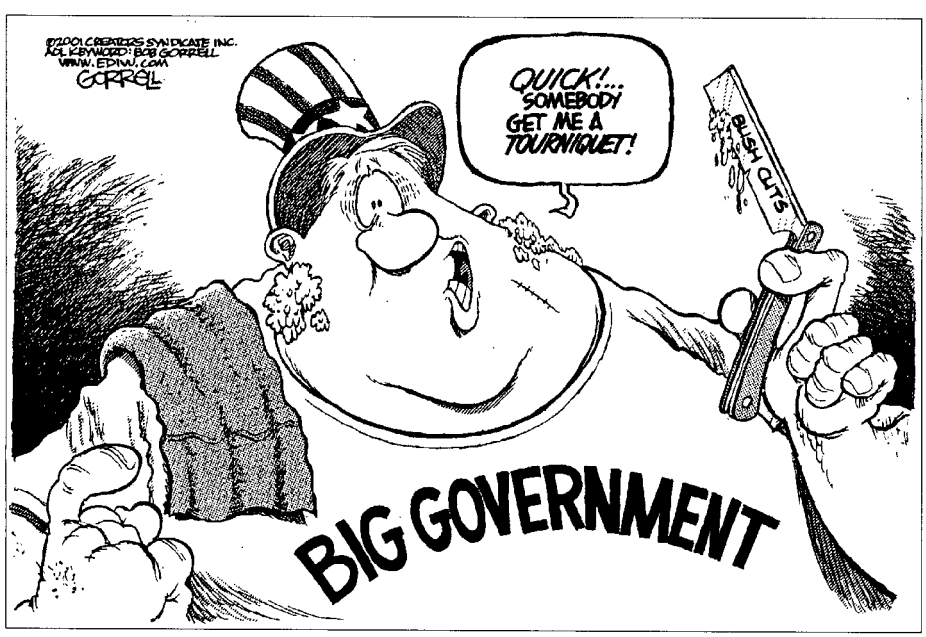
This wasn't supposed to happen. Just as people "know" Bush is a policy lightweight, they also knew that tax cuts were damn poor politics. According to the conventional wisdom, a tax cut proposal was perhaps necessary in the Republican primaries, to fend off the likes of Steve Forbes. But it was supposed to be a non-starter with the broader public, which would rather have the money invested in schools or light rail. After John McCain opened a can of whoop-ass on the tax-cut-touting Bush during the New Hampshire campaign, beating the Texan 49 percent to 31 percent, press sages declared that even Republicans had no interest in tax cuts. The question many were asking was how Bush—who was known for locking his little mind on one or two issues and pursuing them doggedly—could de-emphasize tax cuts without appearing feckless.

"The broad message coming out of Tuesday's New Hampshire primary is that the primacy of tax cuts in Republican politics has been demolished," declared political analyst Charlie Cook in February 2000. Writing in the influential weekly *The National Journal,* Cook opined that the Republicans were finished, since as tax cuts go, so goes the GOP: "The only issue that really separated Democrats from Republicans has been taxes. Now, not even Republican primary voters in notoriously tax-averse New Hampshire respond to the siren song of tax cuts the way they used to."

Maybe not, but candidate Bush turned his siren song into a rousing tune, telling voters that it's taxpayers' money, not the government's; that tax cuts are an insurance policy against a slowing economy; and that they provide a greater incentive to work. Listen to the Not-So-Great Communicator himself: "It is not just the amount of taxes that matters, it's also what the economists call a taxpayer's marginal rate: the taxes we pay on every extra dollar we earn," said Bush, outlining his proposal in December 1999. "That rate determines the incentives to work."

"In my judgment, what's risky is to leave a lot of unspent money in Washington because guess what's going to happen," he argued in the January 10 Republican primary debate. "It's going to be spent on a bigger federal government." At a Florida high school in March, he reiterated, "Giving people their money back serves as an insurance policy against economic downturn."

A funny thing happened: Even as the pundits chided Bush for sticking to a message that they said no one wanted to hear, and even as Al Gore attacked it as a "risky tax scheme" and "economic snake oil," it was Gore at first, and later Democrats in Congress, who had to make adjustments. Polls may show that the public is lukewarm on tax cuts. But that may be because promises of tax cuts since Reagan have far exceeded their reality.



BOB GORRELL

Bush crafted a tax cut that benefited most of the Republican target market. He offered across-the-board rate cuts for everyone, including the rich, doubled child-tax credits for the pro-family folks, and increased the caps on education savings accounts. He fired back at charges that the rate cut unfairly benefited the rich by saying that everyone who pays income taxes will enjoy a cut under his plan. He marketed the benefits to the great American middle class with carefully selected tax families, who he claimed would get to keep $1,600 more of their hard-earned money every year.

When Cook declared tax cuts dead, Gore was offering $250 billion over 10 years in "targeted" tax cuts. By June 2000, Gore had doubled his offer to $500 billion. By winter, congressional Democrats were offering a $900 billion tax cut plan, though without rate cuts for high earners. Bush stood firm at $1.6 trillion, a sign, Washington insiders noted, that he was unwilling to move to the middle to govern. This May, Bush indicated he would accept a $1.3 trillion cut. And on May 26, 108 days

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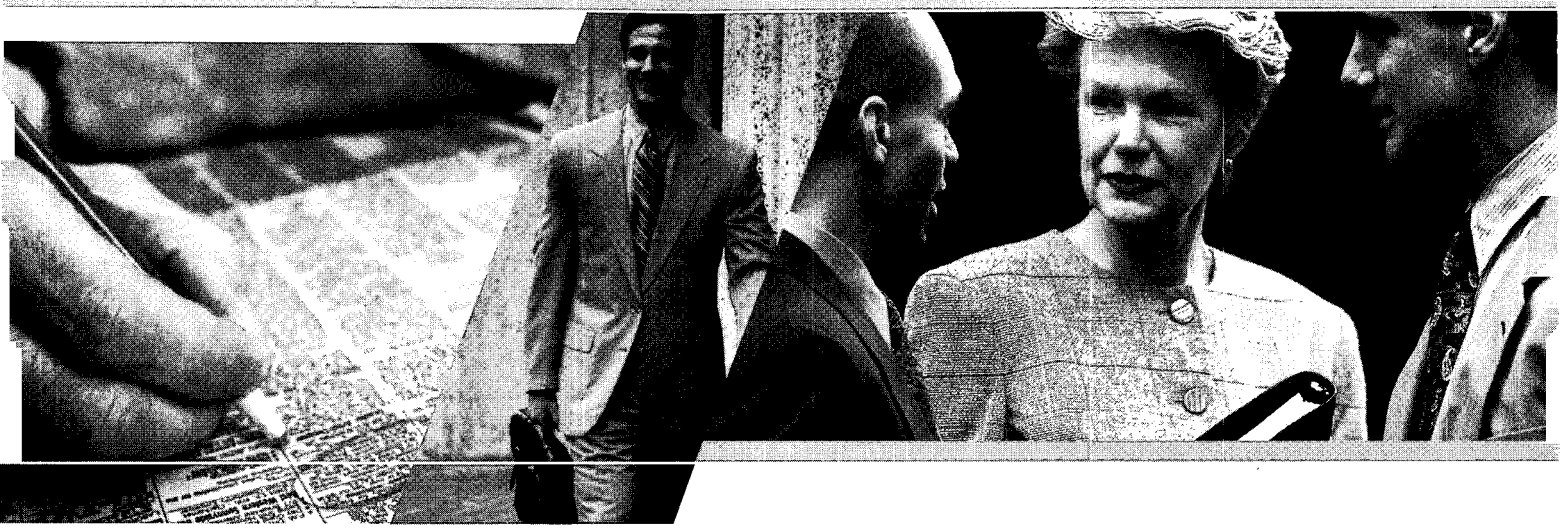

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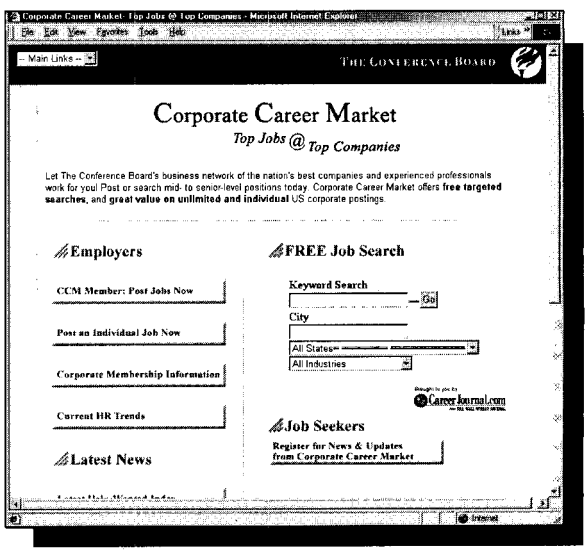
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after he sent his tax cut proposal down Pennsylvania Avenue, Congress passed a 10-year, $1.35 trillion cut. Twenty-seven Democrats joined every Republican in the House and 12 Democrats joined 46 Republicans to support the bill in the Senate.

"Bush staked his presidency on it," says Grover Norquist, president of Americans for Tax Reform, who lobbied hard for the tax cut. "The Bush presidency would have been over if he didn't get it, so everyone who wished him well had to support him." Norquist notes that Bush also assured supporters that this tax cut was the beginning, not the end, of his tax reform efforts. The result: The widely predicted feeding frenzy of business and other interest groups seeking to include their special provisions in the tax bill didn't happen. Says Norquist, "We spent very little time fighting ourselves and all of our energy passing the cuts."

Norquist and others also developed a new strategy to ensure the final tax cut was bipartisan. Knowing that tax cuts are always more popular outside the Beltway echo chamber, they lobbied state legislative bodies to pass resolutions calling for tax cuts. Twenty-seven out of 99 did, including many Democratic-controlled bodies. Legislators were then brought to Washington to lobby key senators, including Montana Democrat Max Baucus, who turned out to be pivotal. "That was a totally new strategy and the other side didn't see it coming," says Norquist.

The tax cut package is far from perfect. To stay within revenue caps, provisions phase in and out haphazardly. The 10 percent bracket is effective immediately for the first $6,000 income for singles and the first $12,000 for married couples. Each of the other marginal rates drop 1 percent on July 1, 2001, and then gradually phase down to new rates of 35 percent, 33 percent, 28 percent, 25 percent, 15 percent and 10 percent by 2006. The child tax credit increases $100 per child this year, but not again until 2005. It eventually will reach $1000 in 2010. The marriage tax penalty isn't addressed until 2005. The inheritance tax isn't axed until the 10th year. At the end of year 10, the entire package is set to expire, and we're back to today's tax code.

"It's sort of like a math problem," says Norquist. "What's the biggest possible tax cut you can get given it can only be this big in these years and so big in other years? The result is that it has to phase in and out in weird ways."

Those weird ways further complicate our already monstrously complex tax code. The on-again, off-again provisions also ensure that fights over extending provisions in the tax code will be fought nearly every year. If the economy avoids recession and Washington's coffers are full, the total tax cut this bill sets up will be much larger. That's because popular provisions such as the deductibility for college tuition and an adjustment of the Alternative Minimum Tax rates, now set to expire mid-decade, will most likely be extended.

But if the economy goes south, the only rate cuts you may receive are the ones you're getting this year. "Hillary Clinton could be in the White House before these tax cuts start kicking in," Stephen Moore, president of the right-wing Club for Growth, told *The Washington Post*. "A big concern is that we are going to have to fight all of these fights again."

The concern on the left, however, is that the bill is actually much larger than advertised. "The thing that always struck us was that he proposed this $1.6 trillion plan, the budget resolution clipped that down to a $1.35 trillion plan, and somehow you ended up with everything that was in the Bush plan. Plus you got the pension stuff and plus you got the education stuff," says Joel Friedman, a senior fellow at the Center on Budget and Policy Priorities, a left-of-center think tank that analyzed every permutation of the plan.

Friedman is referring to increased limits on education savings accounts, deductibility of student loan interest, tax deductibility for college tuition, and increased limits on 401(k) plans that were added to the bill in Congress. "By monkeying around with the numbers, they were able to squeeze more into a smaller package than Bush originally did." MIT economist and *New York Times* columnist Paul Krugman places the true cost at nearly $2 trillion.

Even more worrisome for Democrats is that they fired their entire rhetorical arsenal at this tax cut. It "benefited the rich," they said. It would hurt—or at least not help—the economy, would raid Medicare and Social Security, would counter the public desire for debt reduction and new programs, and on and on. Yet the package still passed in record time. Already facing what they consider an average loss of more than $100 billion a year in federal revenues, they fear that the entire package will be popular and made permanent.

Like boozers who take a pill to make them sick should they weaken and drink, Republicans need to deny themselves the opportunity to spend.

The effects of this bill, therefore, will not only arrive in taxpayer mailboxes in late summer (and in more take-home pay starting in July). The effects will also be felt in this summer's appropriations process and in annual budget wrangling for the next decade. This is not a side effect, but one of the tax cut's core values, and the reason it was fought so bitterly. Republicans have demonstrated over the last few years that they are as incapable as Democrats of not spending taxpayer money. Like boozers who take a pill to make them sick should they weaken and drink, they need to deny themselves the opportunity to spend, regardless of which party controls the purse strings.

"We've said, 'Look guys, this money is not available to be spent,'" says Norquist. He points out that of the projected $5.6 trillion surplus, $2.8 trillion is slated to go to debt reduction and at least $1.3 trillion for tax cuts. That leaves $1.5 trillion for new spending, provided the surpluses meet projections. "This is why I never got too excited about the shape of this tax cut. This wasn't a pro-growth tax cut, it was a smaller-government tax cut." ◆

Michael W. Lynch (mwlynch@reason.com) is REASON*'s national correspondent.*

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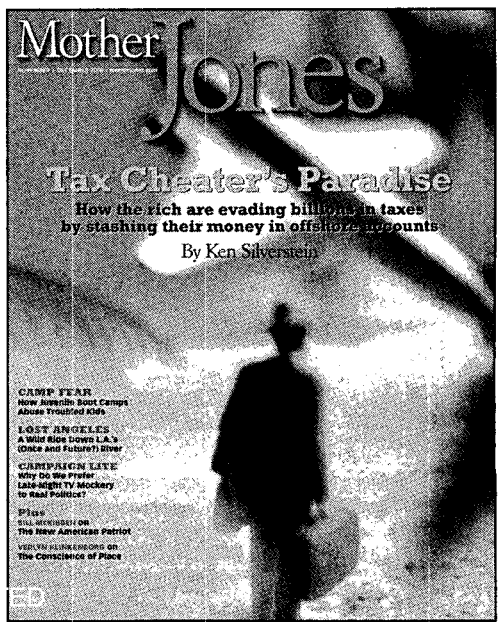
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Cathy Young

Sex and the Census

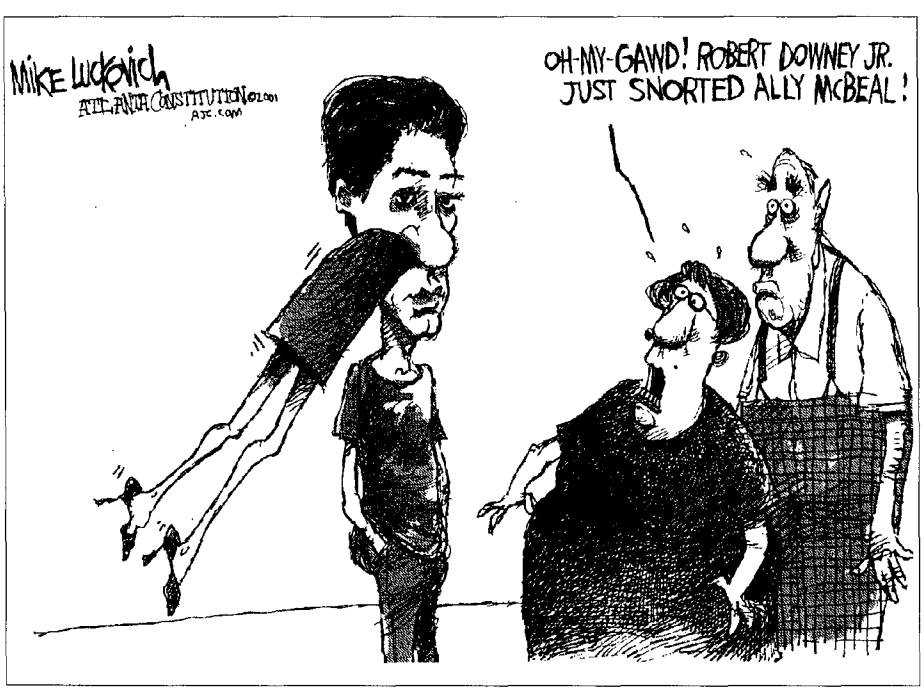
Post-revolution data on toxic bachelors, choice, and children

Singles, according to the latest Census Bureau data released in May, are still on the march. People living alone were the fastest-growing category of households in the 1990s and, for the first time, now outnumber married couples with children. This trend is not due to widowed seniors living longer—people over 65, in fact, were no more likely to live alone in 2000 than in 1990. Rather, more young people are marrying later or not at all.

Is this merely a fact of life or a manifestation of cultural decline—a "titanic loss of family values," as the title of a column in *The Washington Times* put it? Some conservative social critics, most notably George Gilder—starting with his 1974 book *Naked Nomads: Unmarried Men in America*—have focused on the perils that dangerously unstable, undomesticated, unattached males pose to themselves and others. (The latest evidence suggests that growing ranks of single men can, after all, coexist peacefully with dropping crime rates and other positive social indicators.) More recently, though, it's the single woman who has become the focus of concern.

According to the now-famous arguments of Wendy Shalit (*A Return to Modesty*) and Danielle Crittenden (*What Our Mothers Didn't Tell Us*), the post-sexual-revolution landscape is really a free-for-all for men, who don't need to buy the cow when they can have the milk for nothing. And it's a bleak and arid place for women who, as Barbara Dafoe Whitehead wrote in a 1999 essay in *The Atlantic*, "forever remain girlfriends or ex-girlfriends." Sympathy for the plight of the single woman is just another variation on a familiar neotraditionalist theme: The liberation of women from traditional paternalistic restrictions, in this case on sexual behavior, has hurt women themselves.

Much of the evidence marshaled in support of these polemics comes from popular culture—from the obligatory how-to-get-him-to-commit features in women's magazines to single-girl angst in novels such as *Bridget Jones's Diary* and television shows such as *Ally McBeal* and *Sex and the City*.



MIKE LUCKOVICH

In real life, of course, the vast majority of women do eventually tie the knot (in 1990, only 10 percent of 35-to-39-year-old women had never been married). On the single-girl TV shows, relationships have to fail because keeping the girls single is essential to the show's *raison d'être*. (When one of the characters on *Sex and the City*, the romantic Charlotte, actually got married, her husband was promptly supplied with an embarrassing sexual problem that just as promptly led to a separation.)

What's more, playing up the harshness of the contemporary mating system is probably inherent to these shows' concept. In one *Sex and the City* episode, the thirtysomething women were seen perusing the wedding announcements in Sunday's *New York Times* and fuming that the oldest woman in any of them was 27. That's dramatic license: On a typical Sunday, about half of the brides are in their 30s and at least one is over 50.

There is no question that today's sexual marketplace, in which both men and women tend to stay single longer (the average age at marriage in the U.S. is now 25 for women and 27 for men, up from 20 and 22, respectively, in 1960) has its psychological costs. Multiple relationships and breakups can leave scars and breed cynicism, though presumably they can also help people develop a greater appreciation of true love once they find it. It is also worth noting that the sexual revolution changed the behavior of single women much more than it did that of single men, who were never really expected to abstain from premarital liaisons.

The conservative critique of post-sexual revolution mores incorporates its own version of the "men are pigs" mentality for which feminists have been often taken to task. Men, in this view, have little interest in love, relationships, or families if they can get free sex; the only way to "tame" them is for women to withhold sexual favors

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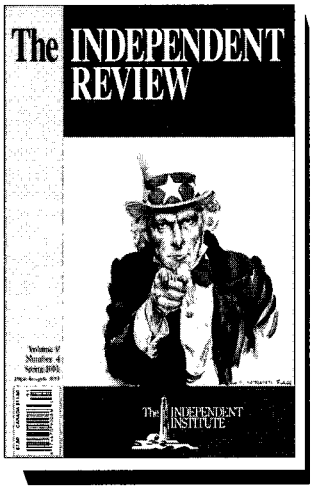

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until they have obtained commitment.

Most stereotypes have at least a grain of truth; both studies and everyday observation certainly suggest that men are more interested than women in sex without strings. But the same surveys in which men express greater enthusiasm for casual sex also find that most men still regard finding one special person as their highest priority. In a 1990 Virginia Slims poll, 70 percent of single men and women alike hoped to marry some day. And most men do continue to wed, despite the availability of free milk. Indeed, a 1994 *New York Times*/CBS poll of adolescents found that more girls than boys, 73 percent to 61 percent, thought they could have a happy life even if they never got married.

That female complaints about "toxic bachelors" have become such a cultural staple may seem to validate the conservative social critique. But maybe there's more to the single girl than meets the eye. Occasionally, the same women's magazines that spend so much time deploring male fickleness will also recognize the existence of women with cold feet. In the 1993 book, *He's Scared, She's Scared*, Steven Carter and Julia Sokol suggest that some women use the male-fear-of-commitment cliché to avoid confronting their own anxieties about being locked into a relationship: They keep selecting the wrong men and rejecting "good ones," and then complain the loudest about the shortage of good men.

Indeed, the single-girl genre often explicitly acknowledges the ambivalence of its heroine. In an early *Ally McBeal* episode, a man Ally is interested in drops her because, he says, he doesn't think she'll ever be content with what she has: "You go through people, you'll—you'll go through me." Later on, Ally tells a woman friend about "a little game I play when I get lonely." Think of "the perfect guy," she says, and imagine your wedding—"the suit, the smile, the night back at the hotel." (The friend sighs blissfully.) Then "think of that man in his entirety," with all of his habits, his likes, and dislikes—and "think of having to live with him every single day for the rest of your life." (The other woman's response quickly changes to a disgusted grimace.) Ally sums up: "We're not only wired to want what we can't have,

but we're wired to want what we really don't want. We're women."

This is, of course, a comic exaggeration. But if the typical single American woman at the turn of the millennium does not shrink in revulsion at the thought of spending her entire life with her beloved, there is one thing that she is emphatically unwilling to do, and that is to settle for a man she doesn't love. In a 1965 survey, more than three out of four college women said that they would marry a man they didn't love if he met their criteria for an ideal mate in every other respect. Men were actually the romantics, with two-thirds insisting that they would only marry for love. By 1991, about nine out of 10 college students, women and men alike, said they would not marry someone they didn't love.

Ironic, isn't it, if declining rates of marriage are less a reflection of moral corruption than of greater idealism about marital love? Of course, the main reason for this idealism is that women today are simply able to afford it, both financially and socially.

In some ways, the conservatives have a point when they note that delayed marriage carries higher risks for women. For professional women, the pool of potential mates conventionally defined as available shrinks as they get older and more successful. That's because women still show a marked preference for "marrying up"—though whether this preference is genetic and whether it's unchangeable is a question that's hardly resolved. (This pattern also means that men with less-than-spectacular careers find themselves at a disadvantage as they get older.) The "biological clock" remains a reality as well, and one that sometimes forces women in their 30s to reconsider their attitudes about "settling" and about what constitutes an "eligible" mate.

As always, when people have options, some of them will be dissatisfied with the roads they take. Some women, and some men, will bitterly regret missing out on marriage and parenthood; in a world of fewer choices, some would have bitterly regretted being pressured into early marriages.

In their much-publicized recent book *The Case for Marriage*, author Maggie Gallagher and sociologist Linda Waite cite a host of data showing that married people on the whole lead happier, healthier, better lives than those who remain single. But the cause-and-effect relationship in such matters inevitably remains murky. If people who weren't able to find Mr. or Ms. Right decided to marry Mr. or Ms. Good-Enough, would they have been happier? Or would many of them have filled the ranks of divorced men and women who make up the other half of Gallagher and Waite's misery index?

There are many reasons to celebrate the array of lifestyle choices we have now. But if there is one exception I would make to a generally approving, laissez-faire approach toward people's decisions about marriage and coupling, it would occur when children enter the picture. According to the latest Census figures, one-third of all babies born in America are now born out of wedlock. It is true that in many cases, the unwed parents are a couple, and I personally know unmarried couples who have managed to create stable and happy homes for their children. Nevertheless, the statistical reality is that such cohabitations break up at distressingly high rates, and that never-married fathers are far less likely to be actively involved in their children's lives than divorced fathers (whether due to less interest or less opportunity).

Unquestionably, many women who become single mothers by choice or by accident do a fine job of raising their children. But a number of studies, such as the work of Princeton sociologist Sarah McLanahan, find that children of single mothers generally fare worse than do children of married or divorced parents of similar socioeconomic status.

Apart from the issue of child outcomes, single motherhood as an institution has another disturbing aspect: It promotes a radical separation between men and children, paradoxically reviving and exacerbating the notion of child-rearing as a female sphere and driving men and women further apart. And that is one lifestyle choice that should give us pause.

Contributing Editor Cathy Young (cathyyoung2@cs.com) writes a column for the Boston Globe.

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First Family Follies

Why President Bush should let his daughters drink

By Nick Gillespie

Let us now praise the Bush twins, Barbara and Jenna, for delivering us from a dreary, scandal-free news cycle. As the sinking post-Clinton ratings of most cable yak shows attest, nothing grabs eyeballs like tales of personal and public folly. If our national politics cannot be ideologically satisfying, they might as well be as luridly comic as a below-average episode of *Sex and the City*.

With their hilariously bungled attempt in June to order margaritas at a Texas restaurant—Jenna's willingness to flash a fake I.D. amid Secret Service agents and a knowing Austin crowd cements her reputation as the Anna Nicole Smith of her generation—the twins have done more than simply shame their teetotaling dad and school-marm mom. Barbara and Jenna have entered the pantheon of First Family Screw-Ups who over the years have given so much laughter and joy to the body politic.

The 19-year-old twins now stand shoulder to shoulder with such epigones of embarrassment as Roger Clinton, whose coke-addled vocal stylings finally found an audience in the rock 'n' roll clubs of North Korea; Uncle Neil Bush, who has effectively gone missing since his role in the Silverado Savings & Loan scandal cast a pall over Poppy Bush's years in power; Patti Davis Reagan, who not only laid bare her disagreements with her father at numerous anti-nuke rallies but eventually laid bare for *Playboy*; and Billy Carter, whose predilection for public urination was matched only by his willingness to exploit his First Brother status to sell self-branded beer to his countrymen and arms to rogue nations.

This is heady company, and the fact that Barbara and Jenna have managed to enter such a charmed circle at such a young age—and so early in their father's tenure—is surely a testament to their superior upbringing. Who could have imagined this even a few months ago? During the election season, the twins were tucked so well into the background that few Americans knew their real names, let alone their bar-hopping aliases. (Last fall, reports *Newsweek*, Yale frosh Barbara tried to score some hooch in New Haven as one Barbara Pierce of Baltimore, Maryland.)

A teetotaler legalizing student drinking? Not quite Nixon going to China, but not so bad a goal for President Bush's second 100 days.

None of this is to suggest that the Bush twins did anything wrong when they bellied up to the bar at a Mexican eatery called Chuy's. Quite the contrary. They were not only following in their father's admitted footsteps by trying to fill their young adulthood with boozy evenings; they were doing what college students, and youths more generally, have done for centuries: go out drinking.

The problem is that they were doing so in an America that criminalized such traditional behavior in the mid-1980s—when their very own grandfather was vice president of the United States and their very own father was taking the pledge.

Even as the Reagan-Bush administration promised to minimize the scope and size of the federal government, it waged a gratuitous, invasive, multi-front campaign against pleasure-seeking: It reinvigorated the War on Drugs, pushing through grotesquely draconian laws that have helped create a national drug-gulag system the envy of every two-bit dictatorship. It prosecuted "porn merchants" such as the publishers of the inoffensive Adam & Eve sex-aids catalog. (Check out Philip D. Harvey's new memoir, *The Government vs. Erotica*, for a depressing but engrossing account of the latter.) And, apropos of the Bush twins, it pushed to have every state in this sweet land of liberty raise its drinking age to 21.

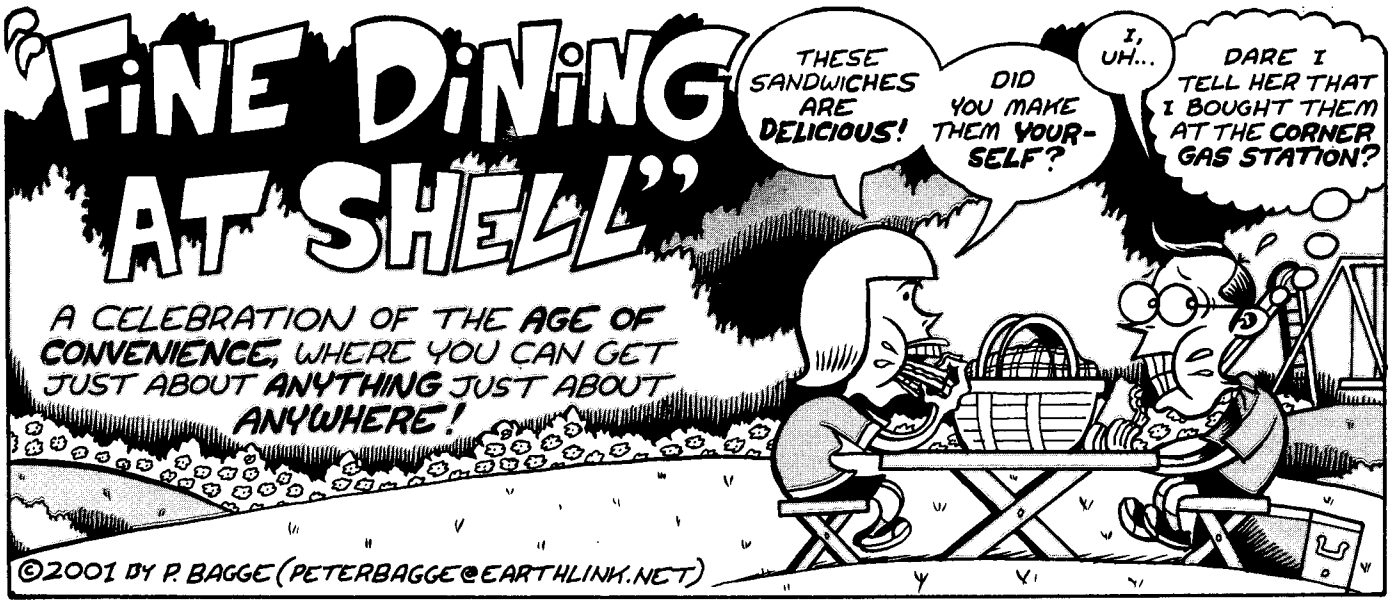
How did the feds accomplish that? By tying federal highway dollars to state drinking ages, a policy that then–Transportation Secretary Elizabeth Dole—whose Viagra pitchman husband Bob was last seen pursuing his own pleasure by ogling Britney Spears in a Pepsi commercial—considers among her very greatest contributions as a public servant.

Such repression was not just a Republican cause, and it didn't end when Bush the Elder was sent packing. Bill Clinton—no stranger to booze, drugs, or adult entertainment—pushed tough drug and teen-age drinking laws too. (He did go soft on porn, effectively suspending federal prosecutions in that area.) In such a climate, then-Gov. Bush signed a three-strikes law punishing underage drinkers that may even end up putting daughter Jenna in the slammer.

How best to undo such ironic justice? President Bush might work to undo the legacy to which he has contributed by pushing for a drinking age that would allow his daughters, and the nation's young adults, to experience college the way he did 30 years ago.

A teetotaler legalizing student drinking? Not quite Nixon going to China, but not so bad a goal for the second 100 days. ◆

Nick Gillespie (gillespie@reason.com) is REASON*'s editor-in-chief.*


"FINE DINING AT SHELL"
A CELEBRATION OF THE AGE OF CONVENIENCE, WHERE YOU CAN GET JUST ABOUT ANYTHING JUST ABOUT ANYWHERE!
THESE SANDWICHES ARE DELICIOUS!
DID YOU MAKE THEM YOURSELF?
I, UH...
DARE I TELL HER THAT I BOUGHT THEM AT THE CORNER GAS STATION?
©2001 BY P. BAGGE (PETERBAGGE@EARTHLINK.NET)

SIP ON A LATTÉ WHILE BROWSING FOR BOOKS AT BARNES + NOBLE...
OOPS! OH DEAR...
THAT STARBUCKS STAND IS GONNA PUT US OUT OF BUSINESS!
SPLAT!
MARTHA STEWART
REMAINDER 20% OFF

...MAKE A BANK WITHDRAWL AT THE GROCERY STORE...
I'LL TAKE THIS PACK OF GUM...
AND I'D LIKE TO EMPTY MY ENTIRE BANK ACCOUNT SO I CAN LEAVE MY HUSBAND AND RUN OFF TO TAHITI!
DEBIT CARD
NO PROBLEM!

...AND WHILE AT THE HEALTH CLUB, WHY NOT UNDERMINE THE ENTIRE REASON YOU'RE THERE BY PATRONIZING THE CLUB'S OWN BAR?!
I'D LIKE A PINT OF GUINNESS...
AND A SIDE ORDER OF CHILI-FRIES, PLEASE!
COMING RIGHT UP!

OF COURSE, YOU CAN STILL ALWAYS LOAD UP ON BEEF JERKY, FILL YOUR CAR WITH GAS, ORDER A HOT TERIYAKI DINNER, BUY A CALLING CARD, PERUSE THE IMPORTED CIGARS AND PURCHASE SOME HERBAL VIAGRA, ALL AT YOUR APTLY NAMED LOCAL CONVENIENCE STORE!
YOU DON'T MIND IF I LIVE HERE, DO YOU?
?

MEANWHILE, THERE ARE RETAILERS WHO ARE TAKING SPECIALIZATION TO THE OPPOSITE EXTREME...
I KEEP TELLING YOU, WE DON'T SELL LAMPS!
WE ONLY SELL LIGHTBULBS! CAN'T YOU READ?!
JUST BULBS

Schoolhouse Crock

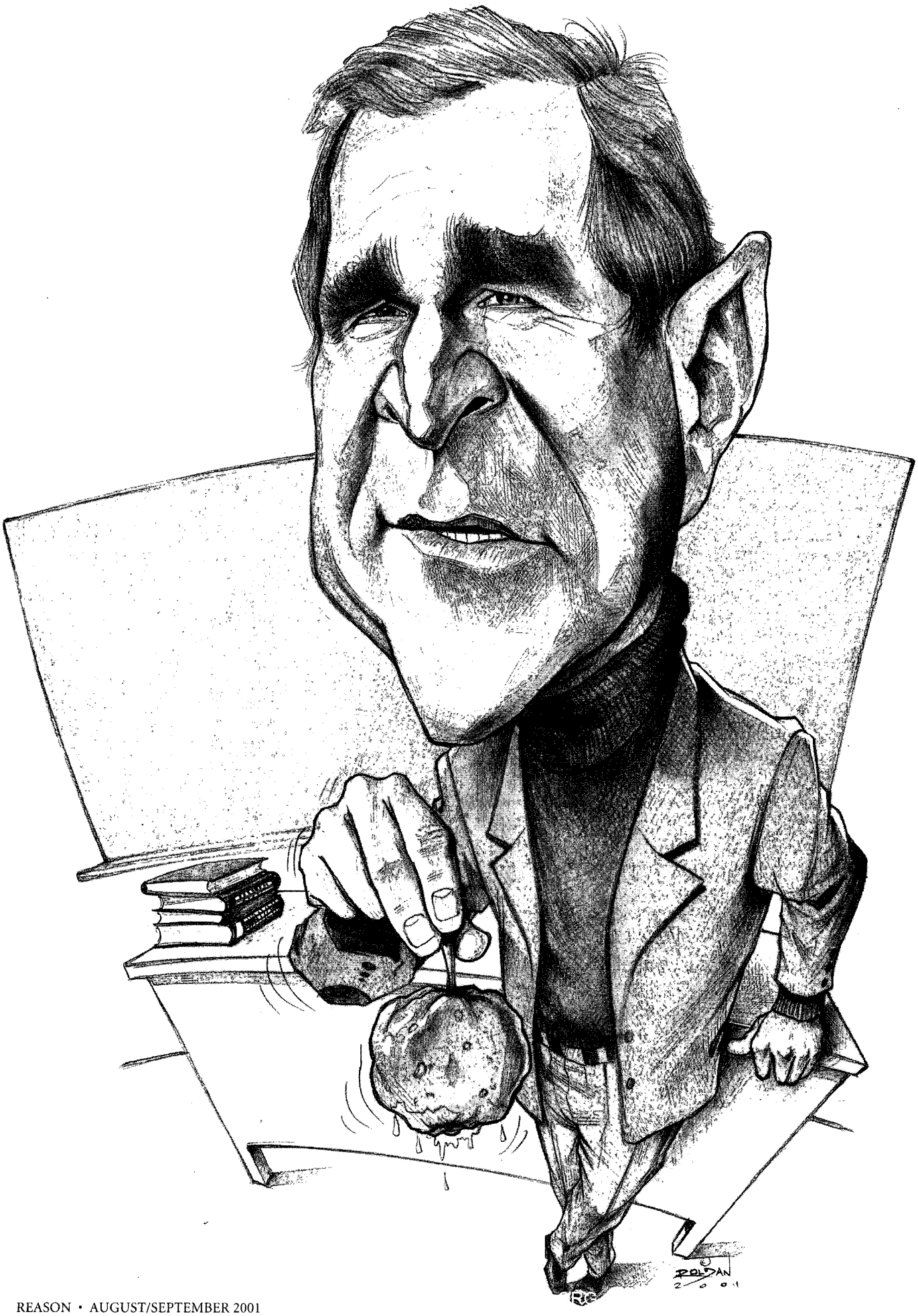
Why George W. Bush's education reforms won't change anything

By Lisa Snell

My son Jacob will be 5 years old this summer, and I have had to face every parent's nightmare of discovering where and how to register him for kindergarten. As the director of an education policy program at a national think tank, I imagined that I had an advantage over the average parent. After all, my job is to evaluate charter schools and tax credits, public school choice and private school voucher programs, homeschooling efforts and privatized school management. Additionally, I am a member of a Los Angeles urban school improvement committee. Finding an acceptable school for my child, I assumed, shouldn't be difficult.

But my confidence began to wane when I started to explore the Web site for our neighborhood school, El Cerrito Elementary, in Corona, California. My heart sank as I reviewed test results and realized that the school to which my son is assigned does not have a Stanford 9 score above

ISMAEL ROLDAN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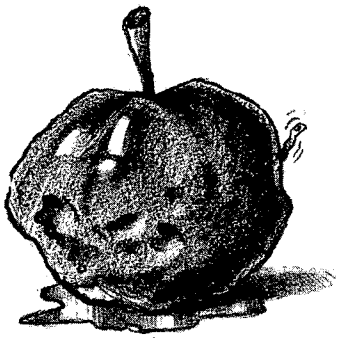


Bush wants to spend $10 billion for

the 50th percentile. The Stanford 9 is a standardized test widely used by schools across the country to track educational achievement. El Cerrito Elementary's score is not that low by California's standards, but who wants to send her child to a below-average school?

I still held out the hope that I would be able to exercise some limited degree of school choice by enrolling my son in a quality public school. The school district had allowed the developer of a middle-class housing tract down the hill and across the freeway from my home to erect a brand new school. By doing so, the developer bypassed the normal per-dwelling school tax and finished building this state-of-the-art facility in less than one year. The new school, Woodrow Wilson Elementary, is even a little closer to my house (I live in a semi-rural area of Riverside County) than the "neighborhood" school that requires my son to ride the bus for 45 minutes each way.

Armed with this knowledge, I naively contacted the Corona-Norco Unified School District's "central registration" office to request an intra-district school transfer. A procedure I expected to be simple and direct turned out to be almost impossible. Presumably to discourage requests like mine, the district only accepts transfer applications one week per year, from the 1st to the 7th of December. The polite voice at the other end of the phone informed me that I would be welcome to apply in December for the following year.

Like millions of other parents stuck with low-performing public schools, my only options are relocation, homeschooling, or, given the decisive failure of the California school choice initiative last fall, investment of a small fortune in private school tuition.

What's more depressing is that there is no relief in sight. President Bush's widely touted education reform plan—which has earned him kudos on the right and attacks on the left—will have minimal impact on American schools and will do little or nothing to improve education for the average kid. That's because the Bush plan deals almost exclusively with Title I, the major federal education program, which is designed to improve schooling for at-risk students. On paper, zeroing in on Title I, widely considered a colossal failure, makes sense. Ninety percent of America's school districts—some 23,000 schools nationwide—receive grants under the program. But the Bush plan's focus is misguided and diverts attention from more sweeping education reform that would help more parents provide their children with a quality education.

What Is Title I?

In 1965, President Lyndon Johnson established Title I of the Elementary and Secondary Education Act as part of his Great Society program. The lofty goal of Title I has been to improve the basic and advanced skills of students who are at risk of failing in school. In particular, the program is designed to assist low-achieving children living in low-income areas where school funding is deemed to be inadequate. At $9 billion a year, Title I is the largest program of federal aid for elementary and secondary education. The money is used mostly to provide intensive math and reading instruction.

In Title I's 36-year history, the U.S. Department of Education has released two major longitudinal studies on the program's effectiveness: *Sustaining Effects* in 1984 and *Prospects* in 1997. The *Sustaining Effects* study demonstrated that the $40 billion spent on the program to that point had done little to improve the achievement of the children it was designed to help. Although the elementary school students showed slight gains over their peers, "By the time students reached junior high school, there was no evidence of sustained or delayed effects of Title I," wrote Launer R. Carter, director of the study, in *Educational Researcher.*

Thirteen years later, the most recent longitudinal study of the program found that even after the federal government spent another $78 billion (from 1984 to 1997), bringing the total spent on Title I to $118 billion, little had changed. "After controlling for student, family, and school differences between participants and non-participants, we still find that participants score lower than non-participants and that this gap in achievement is not closed over time," the authors of the *Prospects* study wrote.

Researchers could not discern any long-term achievement gains directly linked to the Title I program. The program tries to identify and serve the children who need

rogram that has consistently failed to produce any measurable results for close to four decades.

the most help, but according to the study, "The services appear to be insufficient to allow them to overcome the relatively large differences between them and their more-advantaged classmates." Similarly, Wayne Riddle, an education analyst at the federal government's Congressional Research Service, analyzed the two federal longitudinal studies and five other Title I studies. His conclusion: "Title I participants tend to increase their achievement levels at the same rate as non-disadvantaged pupils, so gaps in achievement do not significantly change."

In 1999, the U.S. Department of Education released a congressionally mandated evaluation of Title I that seemed to show, based on results from the 1998 National Assessment of Educational Progress (NAEP), that the 1994 reauthorization of Title I had led to some increases in student achievement due to program reforms. The NAEP tests a sample of fourth-graders, eighth-graders, and 12th-graders from 40 states in writing, science, math, and reading. The test is considered the "nation's school report card" and is widely viewed as an independent measurement of public school achievement. The 1998 NAEP results initially appeared to show significant improvements in fourth-grade reading scores in nine states since 1994.

The progress reported in this study was largely fictitious, however. A skeptical parent in Kentucky, Richard Innes, discovered a problem with the 1998 NAEP reading scores. According to the official results, Kentucky was one of the most improved states in fourth-grade reading. But using data gleaned from the Internet, Innes discovered that the gains in some states, including Kentucky, resulted from the exclusion of students considered to be slow learners and those with learning disabilities. Innes asked this critical question: Can a state's scores be accurate when they don't include large numbers of low-scoring students? An analysis by the U.S. Department of Education confirmed that several states had inflated average reading scores by excluding greater numbers of special-education students from testing in 1998 than in 1994. The federal analysis established that more than half of the 36 states where the NAEP is administered had excluded significantly larger numbers of special-education students in 1998. Five states excluded substantially more non-English-speaking students than they had in 1994.

For example, Kentucky dumped test results for 10 percent of the students who were selected for its 1998 sample, compared with 4 percent in 1994. Louisiana ignored 13 percent in 1998, up from 6 percent in 1994. And Connecticut, the nation's highest-scoring state, removed 10 percent of the students selected to participate, compared with 6 percent in 1994. Not surprisingly, states with larger increases in total exclusions also tended to have larger score increases. When the test scores were compared on a realistic basis, Kentucky gained nothing.

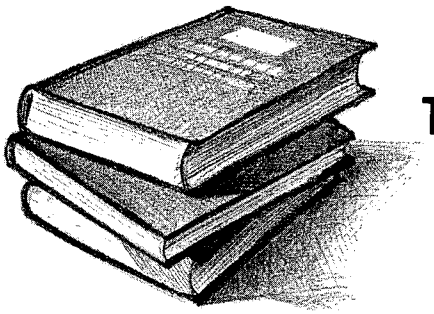
Despite these flaws, the Department of Education's 1999 report showing student improvement from 1994 was widely cited in the education press and the general media. Incredibly, the Department of Education's own investigation into special education exclusions was never made public. I only discovered it accidentally when researching congressional testimony regarding the effectiveness of Title I.

The most recent results of the 2000 NAEP tests for fourth-grade reading paint a bleak picture for Title I: 63 percent of black fourth-graders, 58 percent of Hispanics, 47 percent of urban students, and 60 percent of poor children scored below "basic" in reading—which for all practical purposes means they cannot read.

Why Bush's Plan Won't Work

President Bush has proposed to increase the Department of Education's budget by 11 percent, to $44.5 billion. Assuming his budget is passed as is, Title I, which continues to be the largest single item in the federal education budget, would spend approximately $10 billion for a program that has consistently failed to produce any measurable results for close to four decades. (Democrats are pushing to boost Title I spending to $18 billion.) By comparison, charter schools in Bush's budget would receive around $175 million for start-up and facility costs.

The central component of the Bush plan would overhaul the Title I program for disadvantaged students by requiring states to develop systems of rewards and penalties to hold districts and students accountable for academic progress. Specifically, states would be required to test all



The Department of Education's ow

students in grades three through eight in reading and mathematics every year, as a condition of receiving federal Title I aid. In a nod to federalism, Bush would not institute a national curriculum and would allow individual states to design their own diagnostic tests.

A voucher sanction in Bush's original plan has evolved, through the legislative process, into a $600 tutoring credit. It would allow parents at failing schools that do not make "adequate yearly progress" for three consecutive years to pay for extra reading and math instruction for their child.

That's not much help. But there's a bigger problem with the Bush plan: The current focus on failing Title I schools ignores the grim reality that many schools that have not been designated as failures are still not the kinds of places that most parents want to send their children. To fully appreciate this phenomenon, it is important to consider exactly how dysfunctional a school must become before it is designated a "failure."

Individual states vary widely in how they define what constitutes a "failing" school. Many states have set standards that deem a school's performance adequate even if less than half of its students meet state standards for proficiency. At least eight states have set their standard at or around the 40th percentile, and a few have set the standard even lower. In Alabama, for example, more than half of a school's students must score below the 38th percentile for the school to be put on an intervention track, and more than half must score below the 23rd percentile to immediately target a school for improvement efforts.

To appreciate how most schools escape the "failure" label, one must understand the notion of "adequate yearly progress" (AYP) and how it is measured. AYP is determined at the state level and is tied to meeting performance goals and state standards.

Free Lunch

Title I's formula for determining aid—and its recipe for fraud.

Individual schools receive Title I funding based on the percentage of students that are eligible for the federally subsidized free-lunch program. Though the lunch program is designed to provide food to low-income students who might otherwise go hungry, its guidelines do not require schools to verify the parental income of students who enroll. The process to qualify for a free lunch comes down to parents self-reporting their income on a form that is turned in to their local school. Federal free-lunch program administrators argue that the program has little potential for abuse because "the worst that happens is a kid gets a free lunch."

Federal free-lunch data, however, are used as one of the main poverty indicators for school districts and are linked to many other local, state, and federal funding streams. So any fraud in the free-lunch program is quickly multiplied. And rest assured that school districts recognize the program's multiplier effect and work hard to sign up students. Consider this typical account from the *St. Petersburg* (Florida) *Times* last summer: "When Gulf High School assistant principal Pat Haynes sees needy children lunching on cookies or a bag of chips, she knows the kids are jeopardizing more than just good nutrition. Those kids are also cutting into their school's ability to cash in on its share of millions of dollars in grants and government rebates designed to benefit low-income schools."

The result of such incentives is both soft and hard abuse of the free-lunch program and, by extension, many other programs designed for students from low-income households. Many school districts offer free ice cream and other tokens to kids who return their forms, even if the students aren't eligible for the program. Schools have mailed multiple enrollment forms to parents and some have even taken to calling families at home to ask them to enroll.

For example, in October 1999 *The Baltimore Sun* reported that the principal of Patterson High School took to the intercom and announced: "Guess what is coming? Pizza Party! Everyone connected with the school from parents to staff members will eat pizza, get a free T-shirt, and listen to a disc jockey if poor students can get their parents to fill out an application for free and reduced-price school lunches." In 1999 about 50 percent

Title I evaluations demonstrate that after spending more than $150 billion, the program has not improved achievement for disadvantaged students.

Some states require schools to meet an absolute target or performance threshold. In the president's home state of Texas, for example, a rating of "acceptable" means that at least 50 percent of students at a given school must pass the state assessment in reading, writing, and math. The 50 percent standard doesn't address the obvious: Do the parents of the 50 percent of students who did not pass the Texas Assessment of Academic Skills find this level of achievement to be "acceptable"? Such a low standard means that less than 1 percent of Title I schools in Texas are labeled as failures.

California schools must improve every year by 5 percent of the difference between their academic performance index and the state's performance target of 800. The formula is complex and is based on student scores on the Stanford 9 test. The bottom line is that in order to show AYP, my local school must gain a few percentage points each year on a standardized test.

Assuming that the school can actually achieve the mandated minimums each year, it could be two decades before my local school meets the state target score of 800. In effect, the state and the school district are willing to sacrifice the minds of the children who will be forced to attend this school over the course of the next 20 years while the school struggles to meet minimum AYP standards.

The real failures of El Cerrito Elementary, which can stand in for many schools across the country, become increasingly apparent when actual improvements in reading scores on the Stanford 9 test are considered. In 1998, the average second-grade test scores at El Cerrito Elementary were at the 36th percentile. By 2000, average second-grade reading scores jumped to the 38th percentile. A similar small improvement in achievement has occurred for the other grades at El Cerrito Elementary.

of Patterson High School's 2,200 students qualified for free meals. By using the pizza party strategy, school principal Laura D'Anna increased that to more than 70 percent of students in 2000.

While fraud from the federal free-lunch program may have small consequences for the program itself, the cost of fraud to other education programs such as Title I may be much greater. Districts that have tried more strictly to verify parental income have met with resistance.

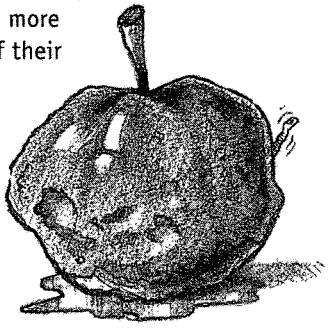
When the Bergenfield school district in New Jersey required parents to submit more extensive income documentation after the number of students in the free-lunch program doubled in one year, the New Jersey state nutrition program forced the district to reinstate all students who were disqualified from the program. Bergenfield district business administrator Tom Egan argued that there were inconsistencies in some of the applications, including applications from students whose parents had homes valued at $350,000.

In some cases, however, school boards openly overreport their school lunch data. In 1999, the Clifton school board in Bergen, New Jersey, voted 5–4 to report that exactly 20.16 percent of public school students were poor enough to qualify for free lunches, instead of the actual number, which was 19.19 percent. The difference was significant: If the number dropped below 20 percent the district would lose $4 million in aid. As the Bergen County, New Jersey, *Record* reported in November 1999, board president Wayne Demikoff said while casting his vote for the higher number, "I cannot, in good conscience, vote for something that is going to devastate the budget."

Strangely, the board did not necessarily break the law by reporting the higher number. The lower figure was arrived at by verifying the income of 80 percent of the families that applied for a free lunch. The federal government requires districts to verify only 3 percent.

The free lunches bring the district both short-term fiscal benefits and long-term financial consequences. Each year, Clifton receives millions of dollars in aid for needy students. At the same time, New Jersey districts that have more than 20 percent of their students on free lunches are supposed to begin providing full-day kindergarten and half-day preschool.

—Lisa Snell



As a parent, perhaps I should be proud of the progress my local school is making. Instead, I am shocked that the school's accepted rate of yearly academic progress could mean that my son will spend his six years of elementary school at an institution that will not come close to meeting California's statewide target goal of 800 by the end of his tenure there.

Why Vouchers Hardly Mattered

Even if the voucher component of Bush's plan had not died in Congress, it would have had little impact on parents who are stuck with low-performing schools. President Bush's plan mirrored Florida Gov. Jeb Bush's A-Plus education program, so the Florida plan is instructive as a model of how the president's plan would likely work over time. By offering vouchers to students at failing schools, the Florida plan is intended to motivate those schools to improve their academic performance. Each public school in Florida is assigned a grade, from A through F, based on the proportion of its students earning a passing grade on the Florida Comprehensive Assessment Test (FCAT). Students attending schools that receive two F grades in four years are eligible to attend a private school or to transfer to another public school.

In practice, few Florida students have actually received the promised vouchers. In the first year that students were eligible to receive vouchers under the program, a total of 53 students from two schools statewide got tickets to go elsewhere. In 1999, there were 78 public schools that received a failing grade based on their FCAT scores. If those schools got the same grades in 2000, they would have been sanctioned with vouchers. Miraculously, by year two of the A-Plus program, every school in Florida (including the 78 schools that had a failing grade the year before) managed to pull test scores up enough to avoid the voucher sanction.

Apparently, the public school establishment in Florida sensed an end to their monopoly and reacted accordingly. Dr. Jay P. Greene, an education researcher at the Manhattan Institute, recently analyzed FCAT test scores covering the initial two years of the A-Plus program. He found that "schools that received F grades in 1998–1999 experienced increases in test scores that were more than twice as large as those experienced by schools with higher state grades."

All of this suggests that the public school establishment will react to the threat of a club, particularly the voucher sanction. But, beyond the minimal threshold of sanction, inertia seems to set in. The never-mentioned tragedy is the fact that, despite improvement, hundreds of thousands of students are still attending inferior schools.

Imagine the frustration of Florida parents with children in those mediocre schools who are now denied the opportunity of a real education for their children simply because an 18-point improvement earned a formerly failing school a D grade? The average failing school did improve but still showed an average score of only 272 out of a possible 500 points. That is the effective equivalent of a doctor being wrong in her diagnosis almost as often as she is correct. Will it soothe those parents to know that President Bush plans to continue with Title I spending of $10 billion a year to ensure that their failing local school, and others like it around the nation, will improve from 50 percent of students failing a standardized test to 47 percent failing the same standardized test? Will they rest easy knowing that average reading test scores will possibly improve from the 39th percentile to the 42nd? Will such results persuade inner-city parents, and all parents for that matter, that truly robust school choice is not a necessary option in the United States?

Failing History

President Bush's proposed program is just the latest attempt to fix Title I. The program has been reformed several times over the last 30 years. Completely absent from the reform debate are the Department of Education's own Title I program evaluations, which demonstrate that after spending more than $150 billion, the program has not improved achievement for disadvantaged students.

Aside from that, education reform is so focused on poorly performing schools and students that education for average and above-average students doesn't even make it to the radar screen. Even if the purest form of Bush's education plan was implemented and the sanctions were enforced, most schools will still be mediocre and most parents will still have few options between their state-mandated public school or paying private school tuition on top of public school taxes.

Real education reform would give parents a way to find a better quality education *now*, instead of waiting years for their failing or simply mediocre public school to improve. Until the federal government allows real education reforms—such as universal tax credits or actual vouchers that are at least equal to the federal portion of per-pupil spending—it will have little impact on the educational experience of students who need better schools while they're still in school.

Meanwhile, the rest of us are supposed to settle for the status quo because El Cerrito Elementary School and others like it around the nation can claim they have made adequate yearly progress (second-grade reading scores average in the 42nd percentile instead of the 38th!). My son Jacob would still be forced to attend a school that is not considered failing even though reading scores average well below the 50th percentile. For most parents and students, whether eligible for Title I or not, the Bush plan is, at best, too little, too late.

Lisa Snell (lsnell@reason.org) is the director of the Education and Child Welfare Program at the Reason Public Policy Institute.

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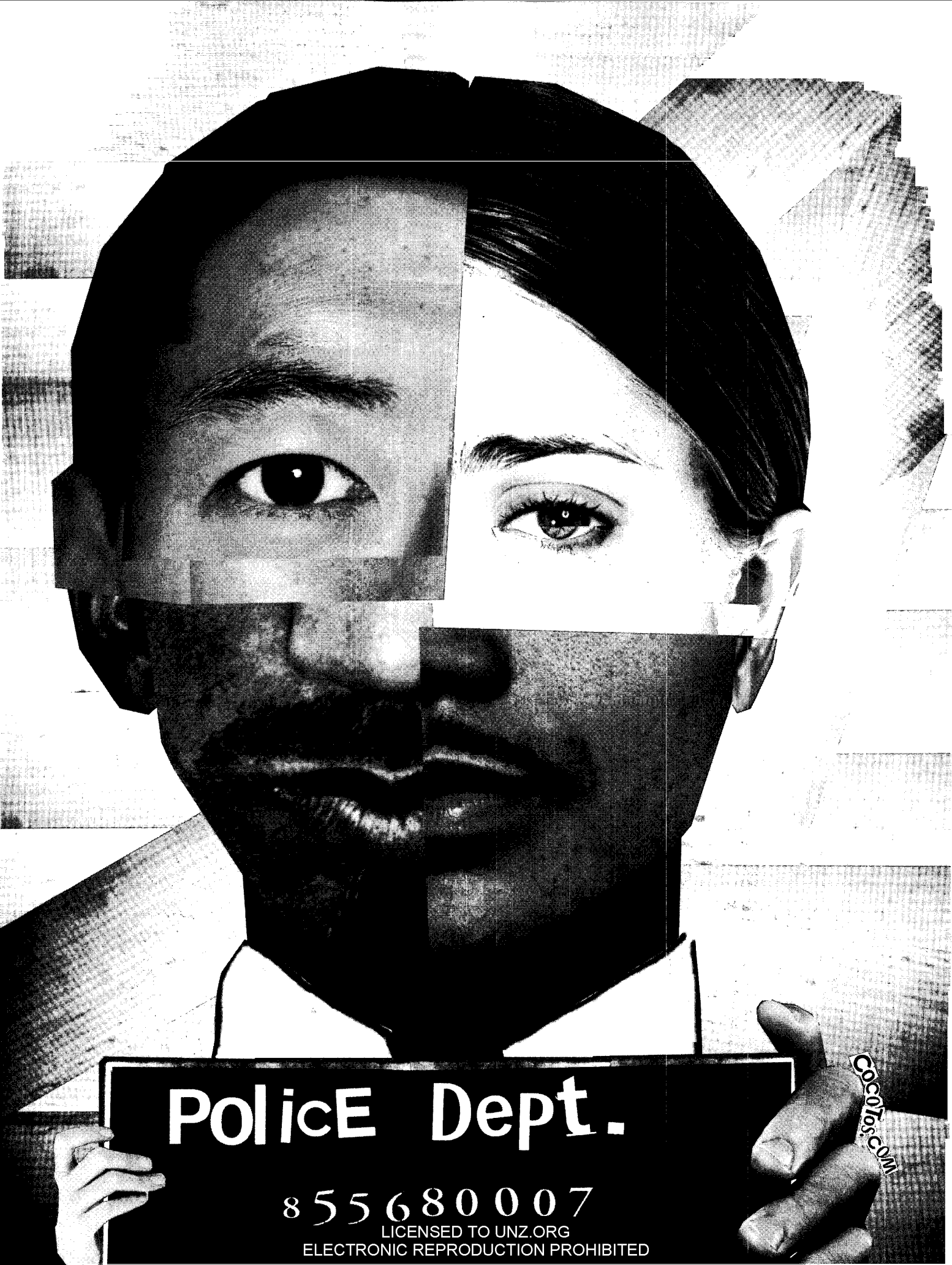

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It is early in the morning, and the well-dressed young African-American man driving his Ford Explorer on I-75 sees the blue lights of the Georgia State Patrol car behind him. The officer pulls behind the sport utility vehicle and the young man's heart begins to sink.

He is on his way to Atlanta for a job interview. The stop, ostensibly for speeding, should not take long, he reasons, as the highway patrol officer walks cautiously toward the Explorer. But instead of simply asking for a driver's license and writing a speeding ticket, the trooper calls for backup. Another trooper soon arrives, his blue lights flashing as well.

The young man is told to leave his vehicle, as the troopers announce their intention to search it. "Hey, where did you get the money for something like this?" one trooper asks mockingly while he starts the process of going through every inch of the Explorer. Soon, an officer pulls off an inside door panel. More dismantling of the vehicle follows. They say they are looking for drugs, but in the end find nothing. After ticketing the driver for speeding, the two officers casually drive off. Sitting in his now-trashed SUV, the young man weeps in his anger and humiliation.

Unmotivated searches like this are daily occurrences on our nation's highways, and blacks and white liberals have been decrying the situation for several years. Many conservatives, on the other hand, dismiss such complaints as the exaggerations of hypersensitive minorities. Or they say that if traffic cops do in fact pull over and search the vehicles of African Americans disproportionately, then such "racial profiling" is an unfortunate but necessary component of modern crime fighting.

TOM COCOTOS

The Roots of Racial Profiling

Why are police targeting minorities for traffic stops?

By Gene Callahan and William Anderson

The incident described above should give pause to those who think that racial profiling is simply a bogus issue cooked up by black leaders such as Al Sharpton and Jesse Jackson to use as another publicity tool. One of us teaches in an MBA program that enrolls a fairly large number of African Americans, and the story comes from one of our students. Indeed, during class discussions, all of the black men and many of the black women told stories of having their late-model cars pulled over and searched for drugs.

While incidents of racial profiling are widely deplored today, there is little said about the actual root cause of the phenomenon. The standard explanations for racial profiling focus on institutional racism, but that idea runs contrary to the sea change in social attitudes that has taken place over the last four decades. On the contrary, the practice of racial profiling grows from a trio of very tangible sources, all attributable to the War on Drugs, that $37 billion annual effort on the part of local, state, and federal lawmakers and cops to stop the sale and use of "illicit" substances. The sources include the difficulty in policing victimless crimes in general and the resulting need for intrusive police techniques; the greater relevancy of this difficulty given the intensification of the drug war since the 1980s; and the additional incentive that asset forfeiture laws give police forces to seize money and property from suspects. Since the notion of scaling back, let alone stopping, the drug war is too controversial for most politicians to handle, it's hardly surprising that its role in racial profiling should go largely unacknowledged.

The Practice of Racial Profiling

Although there is no single, universally accepted definition of "racial profiling," we're using the term to designate the practice of stopping and inspecting people who are passing through public places—such as drivers on public highways or pedestrians in airports or urban areas—where the reason for the stop is a statistical profile of the detainee's race or ethnicity.

The practice of racial profiling has been a prominent topic for the past several years. In his February address to Congress, President George W. Bush reported that he'd asked Attorney General John Ashcroft "to develop specific recommendations to end racial profiling. It's wrong, and we will end it in America." The nomination of former New Jersey Gov. Christine Todd Whitman as head of the Environmental Protection Agency was challenged on the basis of her alleged complicity in racial profiling practices in the Garden State. Whitman had pioneered her own unique form of "minority outreach" when she was photographed frisking a black crime suspect in 1996. Copies of the photo were circulated to senators prior to her confirmation vote. (By the same token, in February 1999, Whitman fired State Police Superintendent Carl A. Williams after he gave a newspaper interview in which he justified racial profiling and linked minority groups to drug trafficking.) More recently, Eleanor Holmes Norton, the District of Columbia's non-voting member of Congress, has tried to introduce legislation that would withhold federal highway dollars from states that have not explicitly banned racial profiling.

Although some observers claim that racial profiling doesn't exist, there is an abundance of stories and statistics that document the practice. One case where law enforcement officers were particularly bold in their declaration of intent involved U.S. Forest Service officers in California's Mendocino National Forest last year. In an attempt to stop marijuana growing, forest rangers were told to question all Hispanics whose cars were stopped, regardless of whether pot was actually found in their vehicles. Tim Crews, the publisher of the *Sacramento Valley Mirror*, a biweekly newspaper, published a memo he'd gotten from a federal law enforcement officer. The memo told park rangers "to develop probable cause for stop...if a vehicle stop is conducted and no marijuana is located and the vehicle has Hispanics inside, at a minimum we would like all individuals FI'd [field interrogated]." A spokeswoman for Mendocino National Forest called the directive an "unfortunate use of words."

The statistics are equally telling. Consider *Crises of the Anti-Drug Effort, 1999*, a report by Chad Thevenot of the Criminal Justice Policy Foundation, a group that monitors abuses of the American legal system. Thevenot writes: "76 percent of the motorists stopped along a 50-mile

Minorities are not only more likely to be stopped than white vehicles, and they are more likely to allow such searches.

stretch of I-95 by Maryland's Special Traffic Interdiction Force (STIF) were black, according to an Associated Press computer analysis of car searches from January through September 1995....Blacks constitute 25 percent of Maryland's population, and 20 percent of Marylanders with driver's licenses." As this story was being written, New Jersey was holding hearings on racial profiling, and one state police investigator testified that 94 percent of the motorists stopped in one town were minorities.

Minorities are not only more likely to be stopped than whites, but they are also often pressured to allow searches of their vehicles, and they are more likely to allow such searches. In March, *The New York Times* reported that a 1997 investigation by New Jersey police of their own practices found that "turnpike drivers who agreed to have their cars searched by the state police were overwhelmingly black and Hispanic."

Some commentators, such as John Derbyshire in *National Review*, have defended racial profiling as nothing more than sensible police technique, where police employ the laws of probability to make the best use of their scarce resources in attacking crime. As Derbyshire put it in his February 19 story, "In Defense of Racial Profiling," the police engage in the practice for reasons of simple efficiency: "A policeman who concentrates a disproportionate amount of his limited time and resources on young black men is going to uncover far more crimes—and therefore be far more successful in his career—than one who biases his attention toward, say, middle-aged Asian women."

George Will, in an April 19 *Washington Post* column, contends that the use of race as a criterion in traffic stops is fine, as long as it is just "one factor among others in estimating criminal suspiciousness." Similarly, Jackson Toby, a professor of sociology at Rutgers, argued in a 1999 *Wall Street Journal* op-ed that, "If drug traffickers are disproportionately black or Hispanic, the police don't need to be racist to stop many minority motorists; they simply have to be efficient in targeting potential drug traffickers."

Clayton Searle, president of The International Narcotics Interdiction Association, writes in a report, *Profiling in Law Enforcement*, "Those who purport to be shocked that ethnic groups are overrepresented in the population arrested for drug courier activities must have been in a coma for the last twenty years. The fact is that ethnic groups control the majority of the drug trade in the United States. They also tend to hire as their underlings and couriers others of their same group." (Searle's report is available at www.inia.org/whats-new.htm#Profiling.)

Case Probability vs. Class Probability

The stories and statistics that draw outrage tend to share two common elements: They involve a search for drugs and the prospect of asset forfeiture. These types of investigations have led police from the solid ground of "case probability" to the shifting sands of "class probability" in their quest for probable cause. Once police are operating on the basis of class probability, there is a strong claim that certain groups of people are being denied equal protection under the law.

Case probability describes situations where we comprehend some factors relevant to a *particular* event, but not all such factors. It is used when a doctor tells a patient, "Given your lifestyle, you'll probably be dead in five years." Class probability refers to situations where we know enough about a *class* of events to describe it using statistics, but nothing about a particular event other than the fact that it belongs to the class in question. Class probability is being used when an insurance company estimates that a man who is 40 today will probably live to be, on average, about 80. The insurance company is not making any statement about the particular circumstances of any particular man, but merely generalizing about the class of 40-year-old men.

This distinction helps us to differentiate two ways of using information about race or ethnicity in a police investigation. As an example of the first type, employing case probability, consider a mugging victim who has told the police that her mugger was a young Asian man. Here, it is quite understandable that the group of suspects investigated will not "look like America." There is no sense in forcing the police to drag in proportional numbers of whites, blacks, women, and so on, proving that they have

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interrogated a representative population sample of their city, before they can arrest an Asian fellow. No, their investigation should clearly focus on young Asian men.

It's not at all impossible that a prevalence of some type of criminal activity in some ethnic group will lead to many investigations that focus on members of that group. As long as this is based on evidence gathered from particular crimes, there is nothing untoward here. If it turns out, for instance, that Bulgarians are especially numerous among purse-snatchers in some city, then a summary of police interrogations might discover evidence of "Bulgarian profiling" in the investigation of purse-snatching. But this may be a statistical mirage if it turns out that no one in the police force set out to focus on Bulgarians as potential purse-snatchers. The emergent result is an unintended outcome of policemen following an entirely valid principle of crime investigation: Concentrate on suspects who fit the description you have of the suspect.

But when we turn our attention to the type of racial profiling that occurred on the highways of Maryland and New Jersey, or that is described in the Forest Service memo, we find a very different phenomenon, one where investigations proceeded on the basis of class probability. Here, before having evidence of a particular crime, police set out intending to investigate a high proportion of people of some particular race, ethnic group, age group, or so on. Their only justification is that by doing so, they increase their chances of discovering some crimes.

Additionally, there is a fundamental difference between the type of crime, such as the mugging example above, that is usually investigated by gathering evidence about a known crime, and narrowing the search based on such evidence, and the type investigated by looking in as many places as possible to see if one can find a crime. The first type of crime generally has a victim, and the police are aware of a specific crime that has been committed. The crime is brought to the attention of the police by a complainant, even if the complainant is a corpse.

George Will, in his defense of current police practice, points out: "Police have intelligence that in the Northeast drug-shipping corridor many traffickers are Jamaicans favoring Nissan Pathfinders." This is quite a different situation than having intelligence that a particular Jamaican robbed a store and escaped in a Pathfinder. If you are a law-abiding Jamaican who by chance owns a Pathfinder, you frequently will find yourself under police surveillance, even though the police have no evidence about any particular crime involving any particular Jamaican in a Pathfinder.

We could not have any effective law enforcement without allowing some scope for case probability. If your twin brother robs a bank in your hometown, it does not seem to be a civil rights issue if the police stop you on the street for questioning. When the police discover their mistake, they should apologize and make you whole for any damages you have suffered. Such an event, while unfortunate, is simply a byproduct of attempting to enforce laws in a world of error-prone human beings possessing less-than-perfect knowledge. It will be a rare event in law-abiding citizens' lives, and it is highly unlikely that such people will come to feel that they are being targeted.

However, the use of class probability in police investigations is correctly regarded with extreme suspicion, as it violates a basic principle of justice: The legal system should treat all citizens equally, until there is specific, credible evidence that they have committed a crime. In the cases we've been discussing, we can say that the odds that any particular young black or Hispanic man will be hassled by the police are much higher than for a white man who, aside from his race, is demographically indistinguishable from him. These minority men, no matter how law-abiding they are, know that they will be investigated by the police significantly more often than other citizens who are not members of their racial group. The social cost of the alienation produced by this situation cannot, of course, be measured, but common sense tells us that it must be great.

As important, in the majority of "crimes" that such stops discover, there is no third party whose rights have been violated, who can step forward and bring the crime to the attention of the police. To discover victimless crimes, investigators *must* become intrusive and simply poke around wherever they can, trying to see if they can uncover such a crime. When someone drives a few

The possibility of rich pickings through asset forfeiture, com
drugs, provides police departments with a tremendous incer

pounds of marijuana up I-95 from seller to buyer, who will come forward and complain? It's not merely that, as in the cases of robbery or murder, the perpetrator may try to hide his identity, but that the "crime" has no victim.

Drug War Profiling Practices

Both statistical studies and anecdotal evidence support the view that drug crimes are the almost exclusive focus of investigation in racial profiling cases. Hence, *The New York Times* reported in February that, "The New Jersey State Police said last week that the number of drug arrests on the Garden State Parkway and the New Jersey Turnpike fell last year, after the department came under scrutiny for racial profiling. The number of drug charges resulting from stops on the turnpike were 370 last year, compared with 494 drug charges in 1999. There were 1,269 charges filed in 1998. On the parkway, troopers reported 350 drug charges last year compared with 783 in 1999 and 1,279 in 1998."

The Record, a Bergen, New Jersey, newspaper, obtained state police documents last fall. One document, used for training, teaches troopers to zero in on minorities when scanning state roadways for possible drug traffickers. Titled "Occupant Identifiers for a Possible Drug Courier," the document instructs troopers to look out for "Colombian males, Hispanic males, Hispanic and a black male together, Hispanic male and female posing as a couple." (One's mind boggles at how the police are able to detect that two Hispanics are "posing" as a couple as they zip by at 60 miles per hour.) The undated document also teaches troopers how to use supposed traffic violations, such as "speeding" and "failure to drive within a single lane," as a pretext to pull over suspected drug couriers.

If police have a goal of maximizing drug arrests, they may indeed find that they can achieve this most easily by focusing on minorities. Blacks on I-95 in Maryland, for instance, had a significantly higher initial propensity to carry drugs in the car than did whites. "Racial Bias in Motor Vehicle Searches: Theory and Evidence," a 1999 study by University of Pennsylvania professors John Knowles, Nicola Persico, and Petra Todd, shows that despite the fact that blacks were stopped three-and-a-half times more than whites, they were as likely to be carrying drugs. But this doesn't mean their propensity to carry is the same. If we assume that the high likelihood of being stopped reduces some blacks' willingness to carry drugs, then if not for the stops, they would have been carrying proportionally much more than whites. The Penn professors conclude they are displaying what they call "statistical discrimination" (i.e., the police are operating on the basis of class probability) rather than racial prejudice. Perhaps more to the point, they conclude that the police are primarily motivated by a desire to maximize drug arrests.

Some racial profiling defenders agree that the drug war bears a large part of the blame for racial profiling. "Many of the stop-and-search cases that brought this matter into the headlines were part of the so-called war on drugs," writes Derbyshire. "The police procedures behind them were ratified by court decisions of the 1980s, themselves mostly responding to the rising tide of illegal narcotics." But Derbyshire dismisses the argument that racial profiling is *chiefly* a byproduct of the drug war. He contends that even if drugs were legalized tomorrow, the practice would continue.

He is confusing the two forms of police procedure we have outlined above. The practice of laying out broad dragnets to see what turns up would almost entirely disappear but for the attempt to stamp out drug trafficking and use. Derbyshire, to bolster his case, cites the fact that in 1997, "Blacks, who are 13 percent of the U.S. population, comprised 35 percent of those arrested for embezzlement." This statistic would be useful if he were defending the fact that 35 percent of those investigated for embezzling that year were black. But does Derbyshire believe that stopping random blacks on an interstate highway is catching very many embezzlers? Or that, absent the drug war, cops would start searching cars they pull over for embezzled funds?

How Asset Forfeiture Fuels Profiling

In the 1980s, state legislatures and Congress were frus-

ıed with the higher propensity for black motorists to carry
ʏe to engage in racial profiling.

trated with their inability to arrest and convict "drug kingpins." So they passed laws that gave police the power to seize the property of suspected dealers. The dubious rationale: The "pushers'" property had been purchased through ill-gotten gains and hence didn't rightly belong to them. (Questions about establishing actual guilt were brushed aside as counterproductive.) The federal Comprehensive Crime Act of 1984 was the most important of these measures, as it allowed local police agencies that cooperated in a drug investigation to keep the vast majority of the assets seized.

In addition, the Department of Justice decided that police in states that did not allow their agencies to keep asset forfeiture proceeds could have the feds "adopt" their seizures. The *Kansas City Star*'s Karen Dillon has done extensive investigative reporting on asset forfeiture over the past three years. She writes: "Wisconsin law mandates that forfeiture money goes to public schools, but only $16,906 went into Wisconsin's education fund during the year ending in June 1999, according to the state treasury department. During just six months of the same period, local law enforcement gave the federal government $1.5 million in seizures."

In a paper published in the September 2000 issue of the economics journal *Public Choice*, "Entrepreneurial Police and Drug Enforcement Policy," Brent D. Mast, Bruce L. Benson, and David W. Rasmussen report that forfeiture receipts roughly doubled every year for several years after the passage of the Comprehensive Crime Act. According to the *Sourcebook of Criminal Justice Statistics*, the total value of Drug Enforcement Administration seizures reached nearly $1 billion in 1992. A large amount of that revenue flows back from the federal government to state and local police departments. Dillon notes: "In 1997 and 1998, the St. Louis Metropolitan Police Department received back more than $2.5 million. In 1998 alone, the Georgia Bureau of Investigation took back $1.7 million."

A letter to the International Narcotics Interdiction Association (INIA) from the Richmond Metro Interdiction Unit, posted on INIA's Web site, is accompanied by a photo of two cops in front of a pile of $298,440. The letter says: "We took this money off a guy coming from NY to Miami on Amtrak about two weeks after returning from SKY NARC [an INIA training session] in Anaheim. It was a great school and as you can see it paid off."

The U.S. Department of Justice reports: "Collectively, local police departments received $490 million worth of cash, goods, and property from drug asset forfeiture programs during fiscal 1997. Sheriffs' departments had total receipts of $158 million."

This kind of money adds a major incentive to police efforts to discover drug crimes. The study by Mast, Benson, and Rasmussen concludes: "The results for the impact of asset seizure laws are robust....Police focus relatively more effort on drug control when they can enhance their budgets by retaining seized assets. Legislation permitting police to keep a portion of seized assets raises drug arrests as a portion of total arrests by about 20 percent and drug arrest rates by about 18 percent."

Of course, if the police begin harassing all motorists in a particular locale, support for their activities will soon evaporate. However, if they can identify a minority group that is somewhat more likely to commit a particular drug crime—and if they know that members of that group are not politically powerful—then the police can focus on those people in order to enhance their departmental revenue.

The usual supposition, that the accused is innocent until proven guilty, has been explicitly reversed in asset forfeiture cases. The authorities are not required to prove that a crime, involving the goods in question, has been committed. Instead, they must merely have "probable cause" for the seizure; the burden of proof is on the defendant trying to recover his property. The Schaffer Library of Drug Policy (druglibrary.org/schaffer) has found that 80 percent of those who have had assets seized are never charged with a crime, let alone convicted of one. Federal law provides for up to five years in prison for attempting to prevent one's own property from being grabbed.

It did not take long for those in law enforcement to conclude that their best haul would come from seizing goods from citizens who lack the resources to win them back. In one highly publicized case that occurred in 1991, federal authorities at the Nashville airport took more than

There's something nutty about a legal system that assumes until a trial proves otherwise, but assumes that a landscape

$9,000 in cash from Willie Jones, a black landscaper who was flying to Houston in order to purchase shrubs. According to the police, that money *could* have been used to purchase drugs. After spending thousands of dollars and two years on the case, the landscaper was able to convince the courts to return *most* of the seized cash.

Sam Thach, a Vietnamese immigrant, found himself in a similar situation last year. He was relieved of $147,000 by the DEA while traveling on Amtrak. Thach was investigated because the details of his ticket purchase, which Amtrak shared with the DEA, "fit the profile" of a drug courier. He was not charged with any crime and is now fighting to retrieve his money in federal court. (See "Railway Bandits," Citings, July.)

When the University of Pennsylvania study and the study by Mast, Benson, and Rasmussen are considered in tandem, the implication is clear. The possibility of rich pickings through asset forfeiture, combined with the higher propensity for black motorists to carry drugs, provides police departments with a tremendous incentive to engage in racial profiling. It is hardly surprising, then, that police take the bait, even at the cost of racial bias accusations and investigations.

Last year, in reaction to high-profile cases of abuse, Congress passed legislation that changed the standard in federal civil asset forfeiture cases. Rather than showing "probable cause" that property was connected to a crime, the feds must now demonstrate "by a preponderance of the evidence" that the property was used in or is the product of a crime, a significantly higher legal standard. The revised law also awards legal fees to defendants who successfully challenge property seizures and gives judges more latitude to return seized property. Exactly what effect the law will have on federal agents, or on state and local cops, is not yet clear.

This Is Your Law Enforcement on Drugs

In the panic created by the drug war, our traditional liberties have been eroded. Rather than regarding case probability as a necessary component of probable cause for searches or seizures, the American law enforcement system has now come to accept class probability as sufficient justification for many intrusions.

Unfortunately, the current protests against racial profiling are not addressing the root causes of the practice. Politicians, eager to please voters, have created potentially greater problems by trying to suppress the symptoms. As John Derbyshire points out, the laws rushed onto the books to end racial profiling result in severe obstacles to police officers attempting to investigate serious crimes. He notes, "In Philadelphia, a federal court order now requires police to fill out both sides of an 8-1/2-by-11 sheet on every citizen contact." Unless our solution to this problem addresses its cause, we will be faced with the choice of either hindering important police work or treating some of our citizens, based on characteristics (race, age, and so on) completely beyond their control, in a manner that is patently unfair.

If we really wish to end the scourge of racial profiling, we must address its roots: drug laws that encourage police to consider members of broad groups as probable criminals. We must redirect law enforcement toward solving specific, known crimes using the particular evidence available to them about that crime. Whatever one's opinion on drug legalization may be, it's easy to agree that the state of seizure law in America is reprehensible, even given last year's minor federal reforms. It should be obvious that there's something nutty about a legal system that assumes suspects in murder, robbery, and rape cases are innocent until a trial proves otherwise, but assumes that a landscaper carrying some cash is guilty of drug trafficking.

Drugs, prohibitionists commonly point out, can damage a user's mind. They apparently can have the same effect on the minds of law enforcement officials. ◆

Gene Callahan (gcallah@erols.com) has written for Ideas on Liberty, National Review Online, Slick Times, Java Developer's Journal, *and* Software Development. *His book* Economics for Real People *will be published later this year by the Ludwig von Mises Institute. William Anderson (anderwl@prodigy.net) is an assistant professor of economics at Frostburg State University in Maryland and an adjunct scholar at the Ludwig von Mises Institute.*

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Old law vs. the new economy

How New Deal–era regulations stifle flexible work arrangements

By James V. DeLong

In August 1997, a certain Mr. T. Trahan of CSC Credit Service wanted to let his sales executives work out of their home offices. He was uncertain about his possible obligations under the Occupational Safety and Health Act, so he wrote to OSHA, the agency that administers the act.

The wheels of bureaucracy grind slowly: His query went unanswered for over two years, but he finally received a reply in November 1999. Those wheels also grind exceeding small, because the Occupational Safety and Health Administration finally said that, yes, a workplace is a workplace and the act applies even if it is in a home. The employer must diligently identify possible hazards to protect the employee.

OSHA's interpretive letter went on for six pages, covering such employee dangers as the possible overload of electrical circuits, the need for material safety data sheets covering hazardous chemicals, the applicability of its then-pending rule on ergonomics, and other such intricacies.

MATTHEW BAEK

This assertion of OSHA authority went unnoticed until the next January, when a *Washington Post* story about it triggered a frenzy of media and congressional objections to overregulation and invasion of the home. OSHA withdrew the letter within 24 hours, and within three weeks its head told a Senate committee that it did not hold employers responsible for home offices, did not expect employers to inspect these, would not itself inspect, and regretted the whole misunderstanding.

But that testimony clouded the reality that the agency did not retreat an inch from its view that the act does in fact apply to home offices, and that agency forbearance is a matter of choice, not law. OSHA could at any time reverse its stance, at a cost estimated by the Employment Policy Foundation, a Washington, D.C.–based think tank that leans toward the business side of employment issues, of at least $1,000 per home office for compliance with rules on clutter, lighting, furniture, exit signs, lead paint, and so on.

The OSHA telecommuting controversy was

The idea that workers might sort themselves out according to their own preferences among packages offered by different employers is antithetical to the still prevailing New Deal belief system.

only the most publicized recent instance of the growing conflict between the possibilities of the information-age economy and the rust-caked body of labor laws and—equally important—mental attitudes built over the past century.

The business community assessed the outcome of the telecommuting encounter as an armistice, not a victory. Bobbie Kilberg, president of the Northern Virginia Technology Council (NVTC), told the same Senate committee that the agency's retreat allowed her organization to continue its pro-telecommuting policy "for the present time," but that for the long run the policy needs to be formalized by legislation, or at least rulemaking.

Kilberg noted that seven of NVTC's 17 employees telecommute at least one day per week, and that four of these are mothers with children under 14. She could have added that the NVTC is only one example of a significant trend. A Gallup poll last autumn found 8 million full-time telecommuters in the U.S.—a number up from zero a decade ago—out of a total workforce of 135 million. The number of part-time telecommuters is believed to be much higher.

In a year when the soccer mom was the most lusted-after political quarry in America, the significance of Kilberg's numbers could not have escaped the senators. Woe awaits the elected official who lets OSHA eliminate the flexibility that telecommuting offers to the professional classes.

What do women workers want?

While the telecommuting battle was going on, OSHA's analogue in the Department of Labor, the Employment Standards Administration, was fighting its own war against the new economy. ESA handles such issues as time-and-a-half overtime pay, which is required if hourly workers put in more than eight hours in a day or 40 hours in a week. It was asked how the calculation of time-and-a-half was affected by a worker's receipt of stock options. In February 1999, it answered with an interpretation saying that the value of the option had to be considered as part of the employee's base pay. Then it added an elaborate and absolutely incomprehensible guideline on calculating this value. As a result, a company would have had to be insane to even consider stock options for hourly workers ever again.

This, too, sat unnoticed for a time, then hit the press big at the end of 1999. As in the telecommuting case, the political system reacted strongly. But this time, ESA did not retreat. So in May 2000 Congress changed the law, by a unanimous vote in each house, so that stock options are not considered part of an hourly employee's basic pay.

Telecommuting and stock options have both become important issues because new social attitudes are emerging from the new economy. The stock option question reflects several beliefs—the idea that all should participate in the economic returns from the new economy, a blurring of historic dichotomies between labor and capital, and concepts of worker participation and the "we're all on the team" ethic.

The defense of telecommuting reflects a rising national appetite for flexible employment arrangements. The Employment Policy Foundation notes that 90 percent of employed Americans work under traditional arrangements (i.e., 40 hours a week, eight hours a day at the employer's workplace, or some regular part-time arrangement), but some 51 percent would like looser deals, such as working from home or dropping in and out of the labor force.

The desire for flexibility is especially pronounced among parents, and two-thirds of all mothers with children under 3 are now working (compared with 42 percent in 1980). Employers have been responding. While total work time required may remain rigid, more give is creeping into starting and ending times. In 1991, 15 percent of all full-time workers had flexible schedules; by 1997 (the most recent data available from the Bureau of Labor Statistics), 28 percent did.

Congress, ever ready to impose quotas in the name of whatever cause achieves sacred-cow status, has picked up telecommuting. It has decreed that federal agencies *must* allow telecommuting and that the Office of Personnel Management must ensure that at least 25 percent of the federal workforce is participating, starting immediately.

The increase in telecommuting and in flextime has fueled many stories about the growing openness of labor arrangements. But these two developments are not the tip of a new labor iceberg; they are the whole iceberg. In other areas, working arrangements are steadily becoming *less* rather than more flexible.

For example, one might expect that many young mothers who have moved into the labor force would prefer part-time to full-time work. In fact, while the absolute number of part-time workers has expanded, part-timers as a percentage of the work force have declined from 20 percent in 1982 to 16 percent today.

Nor is the Internet generating the host of independent contractors or temporary employees that was anticipated. Only 8.2 million workers are independent, and they are mostly what they have always been: management consultants, sales reps, real estate agents, carpenters, and truck drivers. No more than 156,000 independents work as com-

puter geeks, and no tide of independents is discernible in other parts of the economy.

Agency-employed temps are also rare, supplying only 1.2 million workers. They are not particularly noticeable in high tech; only 1 percent (18,000) of all systems analysts and 2 percent (15,000) of programmers live in the temp world.

The increase in scheduling flexibility has also proved a limited benefit. It applies mostly to professional, managerial, and sales workers, 40 percent of whom can control their schedules. As one moves down any given hierarchy, flexibility grows more rare.

Logically, introducing flexibility into organizational structures and work schedules could not only accommodate the desires of soccer moms and dads, it could produce significant economic savings that would benefit firms and workers. Yet so far the response to the possibilities created by the information age has been notably tepid. Why?

Keeping the workers down

Conventional labor arrangements are largely dictated by the economic imperatives involved in making the most efficient use of a firm's infrastructure, such as the support staff, supervisory time and energy, information resources, and communications. These require centralized work sites and consistent hours of operation. They also require massive investments in buildings and equipment that are used a measly 40 hours a week, plus an expensive transportation infrastructure built to meet rush hour needs that also eats up billions of hours of human commuting time.

The rise of the Internet, among other communication technologies, offers huge opportunities to organize work in new ways. Space and equipment costs can be cut, travel time reduced, even public infrastructure investments re-configured. The potential gains in efficiency are dazzling.

But the centralized structures and fixed schedules of the modern workplace are dictated by something other than economic efficiency. They are compelled by federal and state government rules, and it is far from clear that these will permit the changes necessary to produce possible gains. In fact, to judge by the telecommuting and stock-options cases, it is clear that these rules will be modified only after bitter, inch-by-inch struggles.

The U.S. Department of Labor enforces over 180 different laws. The Equal Employment Opportunity Commission and the National Labor Relations Board administer regulatory empires of their own, and the 50 states add yet more regulatory layers. These laws encompass a huge array of subjects and purposes.

The first of the big federal acts was the Davis-Bacon Act of 1931, which required that federal construction projects pay "prevailing wages" so as to avoid cutthroat competition for scarce work during the Depression. Other federal laws initiated during the Depression era, or added since, cover wages and hours, protection of corporate whistleblowers, pensions, family and medical leave, occupational safety and health, disabilities, and many points in between.

It is a jerrybuilt structure, and much of it was enacted for dubious motives. Davis-Bacon was designed by its congressional sponsors to ensure that African Americans, who were not allowed into unions, got no share of Depression-era public spending.

Laws against home-based work are based partly on the truth that the practice can be used to avoid minimum wage laws. But they also provide employment to people who do not want to keep a regular schedule. The labor bureaucracy's hostility to such arrangements derives largely from the labor-union calculation that home workers are hard to organize. The Department of Labor has conducted a decades-long crusade against folks who want to supplement meager incomes by part-time knitting at home.

Much of the structure of labor law reflects the zanier thinking of the New Deal. One was the idea that the U.S. was a mature economy in the 1930s, and that available work must be rationed. Another was that the road to recovery lay through the creation of scarcity by reducing supply while raising prices. (John Maynard Keynes tried to talk Roosevelt out of this one; he failed.)

The structure remains as built, as if Rube Goldberg had designed it, however inconsistent with subsequent experience or modern life. One of its most important premises is that flexibility is bad. Labor policy assumes that employers have power and workers do not. Thus, workers should not be permitted to bargain over conditions of employment, except through unions, because the imbalance of power means that anything that *might* lead to abuse *will* lead to abuse.

Thus, if hourly workers are allowed to work 10 hours a day for four days instead of eight hours for five days, then employers will impose this schedule on some unwilling workers. This cannot be allowed. Thus, if employers and employees are allowed to agree that a worker will get comp time instead of overtime pay, then employers will force this on workers. This too must be forbidden.

The idea that labor markets might work like other markets, that workers might sort themselves out according to their own preferences among packages offered by different employers, is anti-

thetical to the still-prevailing New Deal belief system.

Although unions have often been criticized for crafting unyielding work rules, legal standards actually impose greater rigidity on the workplace. Unions can be bought off, persuaded to relax a rule in a trade for money. Legal standards, on the other hand, are set in stone. If the Fair Labor Standards Act forbids a four-day, 10-hour-a-day week, then that's that. The employer can't offer more money for the flexibility, nor can an employee who desperately wants the new schedule offer to take less.

Even anti-discrimination and anti-harassment laws, which have goals with which all would concur, have become forces for rigidity. They are shot through with vagueness and uncertainty, and the multimillion-dollar damages that juries have awarded under these laws have put employers into a defensive posture. This means inflexibility. Because supervisor discretion is too easily painted as discrimination, everyone must be treated alike and everything must be documented. Flexible arrangements cannot be offered to some employees and not others, which makes employers reluctant to offer them at all.

The potential implosion of Social Security is reinforcing government's propensity to enforce rigidity. Any sensible current entrant into the work force would opt out. He would declare himself a free agent, ask that his employer's share of Social Security be paid to him in cash, and sock both it and his own share into an index fund. A $50,000 per year worker would save $7,650 in a year, which at 6 percent would be worth $61,200 in 36 years. Few expect the rate of return from Social Security to be as high.

The Internal Revenue Service seems, sensibly, to fear massive defections from the system, and is growing more imperious in its decisions restricting employers' use of free agents. Any effort toward flexibility is assumed to be motivated by a desire to evade Social Security tax obligations, and can be countenanced only if the deal passes an elaborate 20-point test. An employer who guesses wrong on the result will pay heavily.

The IRS' assault on flexibility is always justified by stern lectures on the need to protect the workers against exploitive employers, never in terms of protecting Social Security revenues against the rationality of the work force. In fact, the IRS policy injures workers both directly and indirectly. Not only is the worker's rate of return on his savings reduced, but employers have responded by imposing strict time limits on the tenure of independent contractors, decreeing that after a set period—usually three months—they must be cast adrift, regardless of their own desire or the state of the project on which they are working. Companies have also stopped hiring temps directly, forcing them to come in through temp agencies, which take a big chunk out of their pay. Both courses leave the workers worse off.

Employers who adopt flexible arrangements are also getting nicked by employees who repent of their bargain and want labor law to rewrite it. Last year, Microsoft agreed to pay almost $100 million to workers who had signed very clear contracts affirming their independent status. The IRS forced their reclassification as employees, and they then sued Microsoft on the theory that as employees they should have received stock purchase privileges in the 1980s.

AOL is being sued by volunteers who manned its chat rooms and performed other community services. Their original arrangement was very communitarian, and much like a gift economy; their recompense was in the accolades of the online community and in free connection time, which was valuable when AOL charged $6 an hour, but worth zilch when it instituted flat pricing of $19.95 per month.

These volunteers noticed that many company employees earned not just community approval but cash and stock options, which then became worth a fortune. They also noticed that the Fair Labor Standards Act does not allow volunteers in profit-making organizations. Like the Microsoft contractors, they want to be employees, retroactively.

Customer representatives at Amazon's Seattle facility are also reconsidering the glories of the new economy. They launched a unionization drive, an effort brought to a halt when the company cut the size of the facility and fired most of them.

Racial-bias litigation is increasing, with some minorities alleging that their underrepresentation in high-tech industries must be due to discrimination. They, too, want retroactive relief, particularly stock options, calculated at the peak values of the Nasdaq.

New economy vs. old law

The collision between the possibilities of the new economy and the institutionalized rigidity of old-style labor policy is creating an odd reversal. Businesses and their workers want to use the new technologies to take more account of employees' personal and family needs, expanding opportunities to fit work into a satisfying overall pattern. The partisans of the status quo are resisting, which means they persist in the dogma that employees must be treated as fungible factors of production and plugged into one-size-fits-

all slots in the workplace.

There are several reasons behind this reactionary stubbornness. One is the perceived interests of the unions, which have dominated labor policy since the New Deal. Another is that labor law is administered by large bureaucracies, which must operate through rules. Because no bureaucratic structure can be made sophisticated and flexible enough to deal with all the complexities of real life, real life must be remolded to fit the needs of the structure. Note that OSHA took over two years to respond to a simple letter of inquiry about the legal status of home offices, as if the Internet and the world of telecommuting were supposed to freeze in place until OSHA staff got around to looking at their in-boxes. A third factor is that the world of labor law administration is self-selected: People are drawn to jobs as labor law administrators because they embrace old concepts of class conflict. Combine all these factors and the result is an inevitable hostility to the new, fast-changing, and flexible world of work.

Can these forces win their war against the new economy? The ability of governments to enforce sclerosis should never be underestimated. Still, the potential economic and human gains from workplace flexibility are so immense that it is difficult to imagine either businesses or individual workers giving in without a major fight.

Consider the ongoing reconfiguration of industries at the core of the new economy, those in which the output can be translated into bits and moved anywhere in the world at the speed of light: movies, music, publishing, computer software, R&D of all kinds. These are the industries that can take greatest advantage of the economies attainable from dispersing their work forces and cutting back on their central offices.

The new configuration also greatly expands the talent base on which such a company can draw. Previously, a magazine published in Chicago had most of its staff there because interacting by mail was too slow. Staff was thus limited to those writers and editors living in Chicago or willing to move there.

Now, to say a magazine is published in a given city is increasingly meaningless. Writers and editors can be anywhere, and so can the printing plant, and none of these need be in the same place. This expansion of horizons also helps the writers. They can live in Chicago without limiting their options to that city, or they can live somewhere else and still work for the Chicago-based publication.

They have become much more mobile. Taking a job with a new publication no longer means pulling up stakes physically, so the risks of both hiring (for the magazine) and job change (for the writer) are greatly reduced. This in turn fosters innovation and experimentation. It also increases the possibility that a worker can put together two or three part-time gigs, which reduces further the costs and risks for all parties to the deal, thus creating yet more possibilities for innovative arrangements.

While new economy "bit-stream industries" offer the clearest examples of business evolution, similar changes are occurring throughout the old economy as well. Information is revolutionizing automobile manufacturing, oil drilling, and other activities once classified as "heavy industry." Computer programmers, automobile designers, lawyers, and other intellectual workers can be found all over the nation or the world, not gathered in a few business centers. Medicine is being revolutionized by bit streams in the form of pharmaceutical patents, and research facilities can be located anywhere. At a more prosaic level, American doctors now dictate post-operative notes that are transcribed by workers in India and returned to the U.S. by 7 the next morning. Even the medical advice itself can be dispensed over the Web. In the near future, your doctor may also be in India.

Are labor markets like other markets?

There is a fundamental question at the core of this controversy, one that has remained long unresolved: Should labor markets be treated like other markets, and workers allowed to sort themselves out according to their own preferences?

Americans have always been ambivalent in their answer. On the one hand, economists regard U.S. flexibility, as opposed to European-style labor protection, as a source of economic strength. On the other, much U.S. law is indeed premised on the view that labor markets are not like other markets, and that special protection is necessary.

Part of the philosophy of the free market is that everyone is both a producer and a consumer. From this perspective, labor is a factor of production, like capital goods and real estate; the dictates of economic efficiency are that workers will be pushed to their limits. They will be subjected to competition and paid only the value that other people place on their production, and that much only if no one else can produce more cheaply.

But when workers switch to their role as consumers, things change. They then get the benefits of the wealth produced by the system. This wealth is immense, precisely because the system culls out business inefficiency and constantly reorganizes to put resources—including workers—to their most productive uses. The theory is that everyone is both consumer and producer, both king and serf.

OSHA took over two years to respond to a letter of inquiry about the legal status of home offices, as if the world of telecommuting was supposed to freeze in place until OSHA staff got around to looking at their in-boxes.

Because you cannot select only half of the system, the trade-offs benefit everyone.

In practice, people are always squeamish about this philosophy. It is difficult to separate the "factor of production" from the human being doing the producing. Moreover, the producer/consumer trade-off does not work so well for those at the lower end of the labor system, because they get fewer benefits on the consumer side. No society, certainly not a democratic one, will ever treat labor as mechanistically as pure market theory suggests.

This hesitation is strongly reinforced by political pressures. Most of us believe that the free-market system, however sound in theory, needs some tweaking in our favor. We all know that we personally are underpaid and overworked, and deserve dispensation from the tougher parts of being a producer. If we manage to convince the political system, we can get the benefits of the free market while dodging our share of its unpleasantness. The situation is a natural for political log rolling, and in fact different groups of workers are treated quite differently, depending on their political clout. Davis-Bacon still stands as the prime example of politically motivated labor law.

A second reason for interfering with labor markets is the conviction that there is an imbalance of power between employer and employees. This argument cannot be dismissed out of hand. Memory is long, and in the company towns of a couple of generations ago, the imbalance was only too real.

Even today, labor markets remain "sticky." That is, workers' ties to communities inhibit their mobility, and information about alternative employers is often imperfect. Moreover, workers often have invested to create skills specific to a particular job, company, or industry, and they may not be able to get rewarded for these if they change jobs. Employers can and do use such stickiness to their own advantage.

These concerns about labor markets are intertwined—employer power derived from stickiness leads to a sense that intervention is necessary which leads to log rolling. So one of the most interesting dimensions of the new economy is that it forces us to rethink historic positions on these issues. The revolution is improving labor markets just as it is improving the market for goods, and the reasons for many of the existing interventions—however good or bad they were when adopted—need reexamination.

Working-class flexibility

Job markets are no longer limited by the classified pages of the local newspaper; they exist nationwide. If bit streams are involved, then physical relocation is unnecessary, whether for hourly workers or for writers, sales representatives, and management consultants. One can work as an Amazon customer rep from anywhere, not just Seattle. Even the new economy equivalent of the assembly line, a job such as data entry, can be performed anywhere in the world, as in the case of the Indian medical note transcribers.

Relocating also entails less psychic trauma than it once did. Moving on speculation is less necessary; the labor market in a new locale can be checked in advance. Information about living in the new community is far more plentiful and accessible. If training is needed, that too is more available than ever, thanks to the Internet.

Even political log rolling may become less resistant to reform. The expansion in the number and diversity of information channels is making the government more transparent. People can use the Internet to learn about such things as the low rate of return on their Social Security contributions, or the special tax breaks given to particular groups.

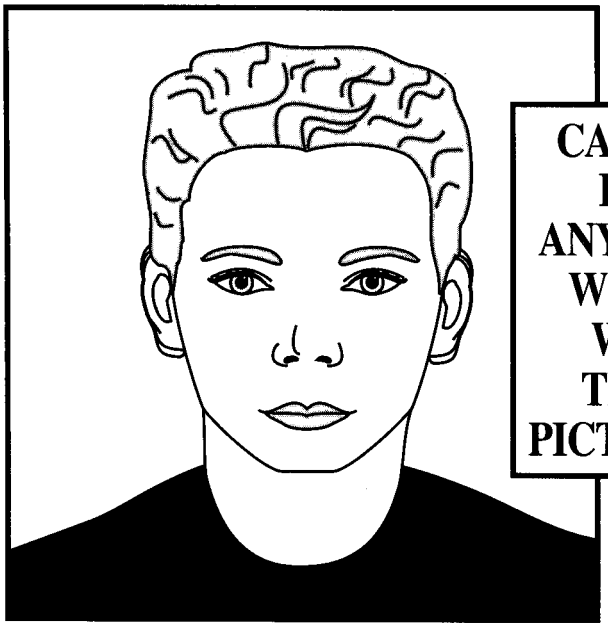
Recently, a proposed expansion in the regulation requiring banks to nose into the affairs of their customers generated 250,000 e-mails to the federal agencies involved. This campaign was triggered entirely by Internet word of mouth. In contrast, in pre-Internet days, it would have been impossible for word of the government's telecommuting and stock-options decisions to have spread so quickly or to have aroused such instant and massive opposition.

One possible result of these developments is that the traditional American ambivalence about labor markets may change, too. We may become increasingly willing to accept the bargain whereby people bear the burdens of the market as producers and take the benefits as consumers. But the fate of the Nasdaq over the past year has tempered the hype of 18 months ago, as well as the everyone-a-capitalist-king enthusiasm.

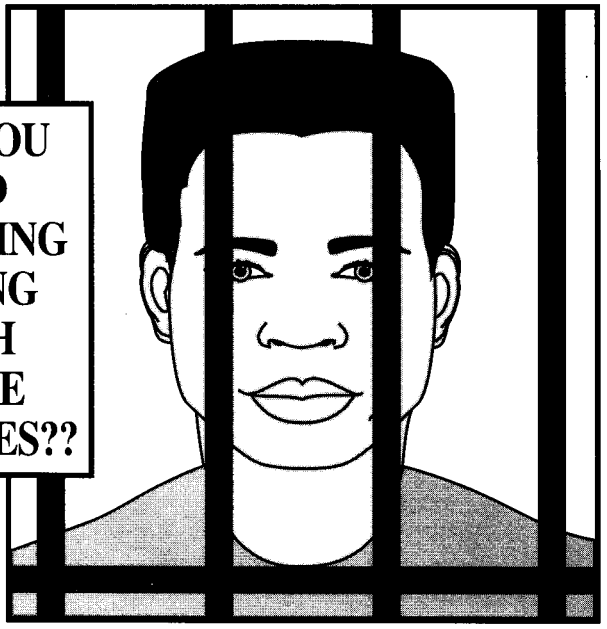
In any event, all that has happened so far is that the professional classes are expanding the flexibility of their working hours and are getting the right to work from home some of the time. The free agent universe of the visionaries is not coming to pass, and is resisted by the labor and tax bureaucracies. But then the war between old labor law and the new economy is only beginning.

James V. DeLong (jdelong@cei.org) is a senior fellow in the Project on Technology & Innovation at the Competitive Enterprise Institute in Washington, D.C.

WHITE KIDS ARE MUCH MORE LIKELY TO BE USING (AND SELLING) DRUGS!



CAN YOU FIND ANYTHING WRONG WITH THESE PICTURES??



According to the federal Centers for Disease Control, he's 4 times more likely than his African-American classmate to be a regular cocaine user.

According to the Justice Department, if he's arrested on drug charges, he's 1-1/2 times more likely than his white classmate to be sent to prison.

White high-school students who are current users of cocaine: 4.1%[1]

Chance of a white person ever trying an illicit drug in their lifetime: 42%[2]

Percent of felony drug defendants in state courts who are white: 37%[3]

Percent of white drug felons given probation or nonincarceration sentence by state courts: 32%[4]

Percent of white drug felons sentenced to prison by state courts each year: 27%[5]

African-American high-school students who are current users of cocaine: 1.1%[1]

Chance of an African-American person ever trying an illicit drug in their lifetime: 37.7%[2]

Percent of felony drug defendants in state courts who are black: 61%[3]

Percent of black drug felons given probation or nonincarceration sentence by state courts: 25%[4]

Percent of black drug felons sentenced to prison by state courts each year: 43%[5]

BLACK KIDS ARE MORE LIKELY TO GO TO PRISON!

Note:

According to the US Justice Department and the Office of National Drug Control Policy, drug users typically buy their drugs from sellers of their own racial or ethnic background. Research of Ethnicity & Race of Drug Sellers and Users: US Dept. of Justice National Institute of Justice & the Office of National Drug Control Policy, "Crack, Powder Cocaine, and Heroin: Drug Purchase and Use Patterns in Six U.S. Cities, " December 1997, p.1, 16, and p. 15, Table 16.

Sources:

[1] Data on drug use by high-school students: Youth Risk Behavior Survey 1999, Centers for Disease Control, reported in Morbidity and Mortality Weekly Report, Vol. 49, No. SS-5, p. 66, Table 24.

[2] Data on lifetime prevalence of drug use: US Dept. of HHS Substance Abuse and Mental Health Services Administration, "Summary of Findings from the 1999 National Household Survey on Drug Abuse," August 2000, p. G-13, Table G-13.

[3] Demogaphic data on felony drug defendants in state courts: US Dept. of Justice Bureau of Justice Statistics. "Felony Defendants in Large Urban Counties, 1996," October 1999, p.4, Table 3

[4] Demographic data on felony drug defendants in state courts: US Dept. of Justice Bureau of Justice Statistics, "State Court Sentencing of Convicted Felons, 1996," February 2000, p. 13, Table 2.5

[5] Demographic data on felony drug defendants in state courts: US Dept. of Justice Bureau of Justice Statistics, "State Court Sentencing of Convicted Felons, 1996," February 2000, p. 13, Table 2.5

Kevin B. Zeese, President, Common Sense for Drug Policy
3220 "N" Street, NW, #141, Washington, D.C. 20007 * 703-354-9050 * fax 703-354-5695 * info@csdp.org
For more information, visit www.csdp.org and www.drugwarfacts.org

The Great Gun Fight

A REASON ONLINE debate

More guns mean less crime. That's the essential thesis of John R. Lott Jr.'s path-breaking book, appropriately titled *More Guns, Less Crime: Understanding Crime and Gun Control Laws* (University of Chicago Press, 2000), which looked at the relationship between liberalized gun laws and criminal activity. In both the original 1998 and revised 2000 editions, Lott, a senior research scholar at Yale Law School, used national gun and crime data to perform an unprecedentedly thorough study of the issue. On the face of it, his claim makes sense: If criminals assume that potential victims may be armed, they'll be less likely to act. (See "Cold Comfort," January 2000.)

Not so fast, says George Mason University physicist Robert Ehrlich. In his new book, *Nine Crazy Ideas in Science (A Few May Even Be True)* (Princeton University Press), Ehrlich argues that the data are in fact inconclusive and that Lott is massaging the results to fit his theory. Ehrlich, a gun owner himself, concludes that liberalized gun laws have had no appreciable effect one way or another.

So which is it? We invited Ehrlich and Lott to debate the issue on REASON ONLINE from May 21–24. Each was allowed to make two contributions and, after the initial salvo, each had to respond within hours of the other's posting. Readers interested in more information can visit reason.com/hod/debate1.html, which includes links to many of the sources mentioned below, including both Ehrlich's and Lott's books.

DARREN GYGI

Robert Ehrlich

More Guns Mean More Guns

Why John Lott is wrong

John Lott's book, *More Guns, Less Crime* contains many points with which I agree. For example, I believe that many criminals are leery of approaching potential victims who may be armed—an idea at the core of his deterrence theory that guns help to prevent crime. I also believe that violent criminals are not typical citizens, and that the possession of a gun by a law-abiding citizen is unlikely to turn him into a crazed killer. Additionally, Lott has a point when he speaks of the media's overreporting of gun violence by and against kids and the corresponding underreporting of the defensive use of guns to prevent crime.

As a gun owner myself, I was quite prepared to accept Lott's thesis that the positive deterrent effect of guns exceeds their harmful effects on society, but as a scientist I have to be guided by what the data actually show, and Lott simply hasn't made his case. Here's why:

Lott misrepresents the data. His main argument that guns reduce crime is based on the impact on various violent crime rates of "concealed carry laws," which allow legal gun owners to carry concealed weapons. Since these laws were passed at different dates in different states, he looks at how the crime rates change at *t=0*, the date of the law's passage in each state. Lott's book displays a series of very impressive-looking graphs that show dramatic and in some cases immediate drops in every category of violent crime at time *t=0*. The impact on robberies is particularly impressive, where a steeply rising robbery rate suddenly turns into a steeply falling rate right at *t=0*—almost like the two sides of a church steeple. As they say, when something looks too good to be true, it probably is. Lott neglects to tell the reader that all his plots are not the actual FBI data (downloadable from their Web site), but merely his *fits* to the data.

The actual data are much more irregular with lots of ups and downs, and they show nothing special happening at time *t=0*. Lott has used the data from 10 states in his book. When we look at changes in the robbery rate state by state, only two of the states (West Virginia and Georgia) show decreases at *t=0*, while the other eight show increases. Overall, averaging the 10 states, there is a small but not statistically significant increase in the robbery rate at *t=0*, certainly not the dramatic decrease Lott's fits show. In fact, Lott's method of doing his fits is virtually guaranteed to produce an "interesting" result at time *t=0*. What he does is to fit a smooth curve (actually a parabola) to the data earlier than *t=0*, and a separate curve to the data later than *t=0*.

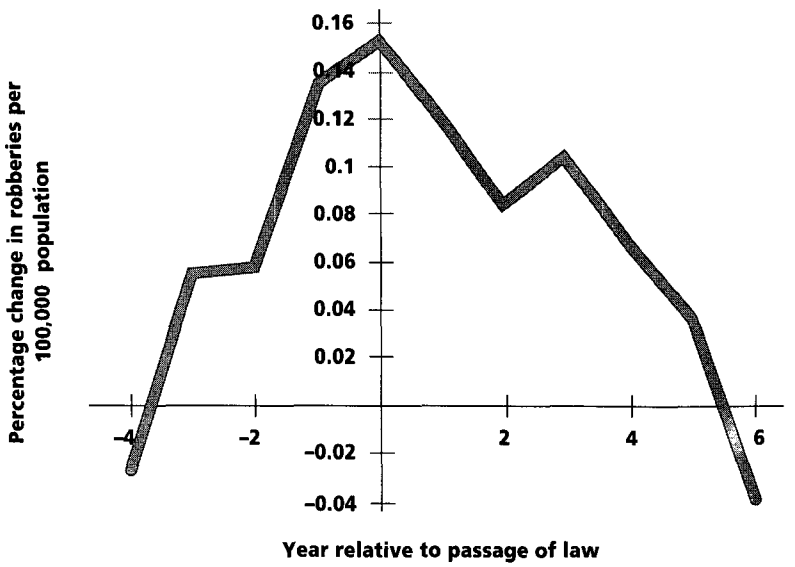
Given a completely random set of data, Lott's fitting procedure is virtually guaranteed to yield either a drop or a rise near time *t=0*. Only if the data just happened to lie on a single parabola on both sides of *t=0* would the fits show nothing special at that time. Since random data would show a drop or a rise equally often at *t=0*, we have a 50 percent chance of finding a drop—not a very good argument for the drop being real. The fact that all categories of violent crime (murder, rape, assault, robbery) show drops is also not particularly surprising, since the causes of violent crime (whatever they are) probably affect the rates in all the separate categories. Similarly, it is no more mysterious that when the overall stock market rises or falls dramatically the individual sectors (industrials, utilities, etc.) are more likely than not to move in the same direction.

Lott's results are not consistent. Taking Lott's fits at face value, we find they give inconsistent results. For example, he shows murders, rapes, and robberies each declining sharply and immediately at *t=0*, the year of passage of the laws, but the aggravated assault rate rises slightly and doesn't start its descent until three years after the law's passage. Presumably, the same sorts of folks are committing murders and assaults, so this difference is very puzzling. Similarly, Lott shows the rate of multiple public shootings declining dramatically (by 100 percent) only two years after *t=0*. But using follow-up data in a more recent paper, Lott shows multiple shootings rising precipitously the year *before t=0* and then declining right at *t=0*. It's difficult enough to understand why the impact of the laws should be so much greater on multiple shootings by crazed killers than ordinary murders (which drop only 10 percent), but figuring out how the laws could work in reverse time on the thinking of these psychos is a real challenge.

Lott's results cannot account for all the relevant variables. Recognizing that violent crime rates can depend on all sorts of factors aside from the passage of concealed carry laws, Lott includes many variables when he runs his multiple linear regressions to disentangle the impact of each factor. Many of these variables, such as arrest rates, percentage of African Americans, and population density, account for a far

Robert Ehrlich: Lott shows murders declining sharply the year the gun laws are passed, but aggravated assaults don't decline until three years later. Presumably, the same sorts of folks are committing murders and assaults, so this difference is very puzzling.

Year-by-Year Effect of Concealed Handgun Laws on Robbery Rates
(relative to states that did not pass concealed carry laws)



Source: John Lott

greater percentage of the variation in violent crime than the mere 1 percent he attributes to passage of the laws. However, with such a small dependence on the one factor he is looking for, only if Lott has included *all* the relevant variables that could affect the rate of violent crime can he hope to see the residual amount due to the effect of that one factor. In answer to this criticism, Lott says OK—tell me what variable I've left out and I'll include it. But the list of plausible variables that could affect violent crime rates over time is virtually endless.

Here, for example, are 14 that Lott didn't include: (1) amount of alcohol sold, (2) price of alcohol, (3) amount of drugs sold, (4) price of drugs, (5) number of police on the beat, (6) number of police brutality complaints, (7) average summer temperature, (8) number of convicted felons on the streets, (9) average age of convicted felons on the streets, (10) percentage of teenagers living in two-parent households, (11) high school dropout rate, (12) dollars spent on crime prevention programs, (13) minimum wage rate, (14) amount of media violence. I'm sure readers could come up with many more plausible factors, any one of which could mask the true dependence on the concealed carry laws.

Lott doesn't properly compute statistical significance. Another very serious problem with Lott's method is how he calculates the statistical significance of his results. He essentially asks, What is the probability of getting the observed variation of the crime rate on either side of *t=0* based on changes in the various socio-demographic variables and random variations? If that computed probability is very small, he regards his hypothesis that the concealed carry laws made the difference as being proven.

But that's not right. He needs to look at the probability of a change in the crime rate for years t= –3, –2, –1, 0, 1, 2, 3, etc. Only if the probability is very much less for year zero than the other years can he consider his results meaningful. It seems very likely, however, that Lott would find similarly low probabilities for all these other years, because only if the violent crime rate were static over time would there be no significant variation on either side of year *t=0*, or any other given year. In fact, John Donahue, a law professor at Stanford, analyzed Lott's data and found that the most significant turning point for the robbery rates occurs *before t=0*.

Lott has correctly observed that, by passing concealed carry laws in various states in various years, the U.S. has been in effect conducting an extremely interesting social experiment. That experiment, in principle, can give us an empirical answer to the relationship between easing restrictions on gun-carrying permits and crime. However, his one-sided analysis of the data inspires little confidence that we can count on him to tell us the true results of this experiment. From all indications it seems that the concealed carry laws probably have had almost no effect, one way or the other.

John R. Lott Jr.

Taking Stock
Less gun control means less violent crime

Robert Ehrlich's review of the first edition of my book, *More Guns, Less Crime*, is well-written, and it is interesting to know that he owns a gun despite his concerns about research on the benefits of doing so. Unfortunately, however, his discussion is incomplete and simply inaccurate. Below are responses to the more important claims he makes.

"Lott neglects to tell the reader that all his plots are not the actual FBI data...but merely his fits *to the data."* There are several places in my book that discuss how the diagrams show how crime rates change before and after right-to-carry laws are adopted once other factors have been taken into account. It is important to distinguish not just whether there was a decline in crime rates, but whether there was a decline relative to other states that did not adopt the right-to-carry laws. The second edition of *More Guns, Less Crime*, which was published in 2000, was also clear on this point, and its graphs showed the changes in crime relative to other states that did not change their laws and were in the same region of the country.

"Lott has used the data from 10 states in his book." I used data from the entire United States. The first edition used

state-level data from all the states and the District of Columbia, as well as county-level data for the entire country from 1977 through 1992 (and, in some estimates, up to 1994). The second edition of the book not only updated the county and state data through 1996, but also used city-level data for the largest 2,000 cities. Possibly what Ehrlich means here is that only 10 states (with a total of 718 counties) adopted right-to-carry laws during the 1977–1992 period. The point of examining all counties in all the states was to make a year-by-year comparison of how the crime rates had changed in the counties with the right-to-carry laws relative to the counties in states without the laws. In the second edition of my book, a total of 20 states, representing 1,432 counties, adopted right-to-carry laws between 1977 and 1996.

"The actual data are much more irregular with lots of ups and downs, and they show nothing special happening at time t=0." My book reports the year-to-year changes in crime rates, and these results are consistent with the before-and-after trends. One of the benefits of examining the change in trends is that there are straightforward statistical tests to see if the change is statistically significant.

"Overall, averaging the 10 states, there is a small but not statistically significant increase in the robbery rate at t=0, certainly not the dramatic decrease Lott's fits show." Ehrlich has examined state-level robbery rates for the 10 states that had adopted right-to-carry laws between 1977 and 1992, using data extended up until 1995 for the four years on either side of adoption. He finds that there is no statistically significant change in before-and-after trends. He claims to use data up until 1997, but that is not possible since he limited the sample to only four years after adoption and the first full year these states had the law in effect was 1992. I have tried to replicate his results, but have been unable to do so: Robbery rates are declining after adoption relative to how they were changing prior to adoption.

Yet even if his data analysis had been correct, his approach has a lot of problems. The main difficulty is that there is no comparison of what is going on in the states that do not adopt right-to-carry laws. When such a comparison is made, the drop in crime is about twice as large in right-to-carry states and twice as statistically significant. Accounting for other factors (e.g., the arrest rate for robbery) also increases the statistical significance of the drop. Many aspects of what he did are unclear, such as whether he weighted each state equally or weighted them by population (as is normally done). But neither approach altered the final result.

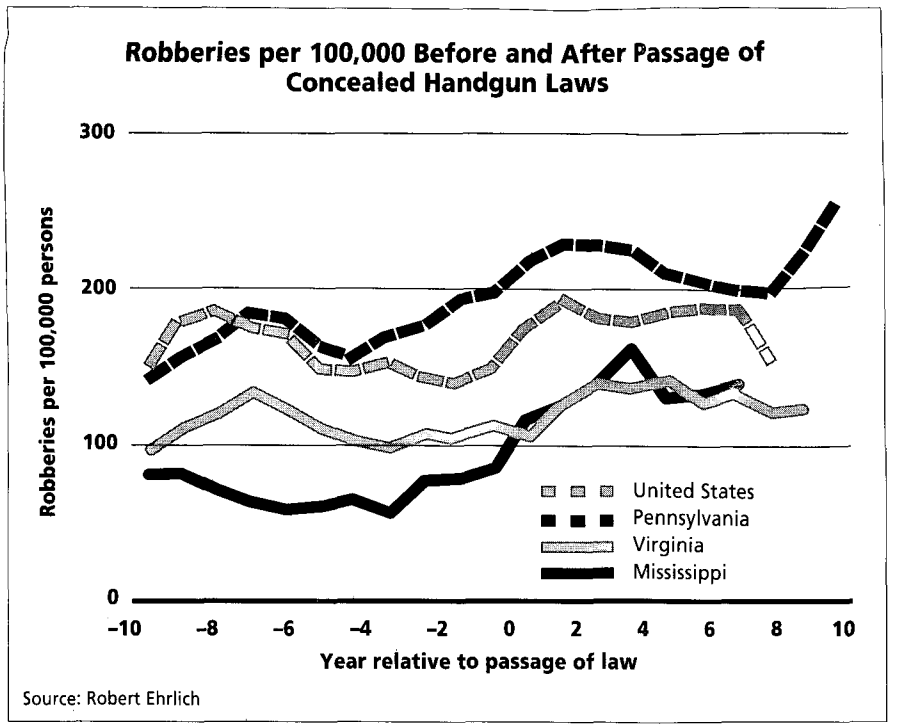
"What [Lott] does is to fit a smooth curve (actually a parabola) to the data earlier than t=0, and a separate curve to the data later than t=0." This is only one of several different approaches reported in my book. The first edition also presented actual data on the number of permits issued per county over time for several states where the data were available. The second edition further examined whether differences in right-to-carry laws can affect the number of people who get permits (e.g., the permitting fees, the length of the training requirement, and how many years the law has been in effect), and whether this in turn can explain the changes in crime rates.

"Given a completely random set of data, Lott's fitting procedure is virtually guaranteed to yield either a drop or a rise near time t=0." This is not literally true. Besides a flat line, other possibilities very obviously include the crime rate first rising and then falling after adoption—or falling and then rising. The question is also not whether there is a change in trends, but also whether those changes are statistically significant.

"Similarly, Lott shows the rate of multiple public shootings declining dramatically (by 100 percent) only two years after t=0. But using follow-up data in a more recent paper, Lott shows multiple shootings rising precipitously the year before t=0 and then declining right at t=0." There are no inconsistencies. This paper, co-authored with William M. Landes, examined whether the results were sensitive to removing observations from the year of adoption, as well as the two years prior to adoption. We found that the results remained essentially unchanged.

"It's difficult enough understanding why the impact of the laws should be so much greater on multiple shootings by crazed killers than ordinary murders (which drop only 10 percent), but figuring out how the laws could work in reverse time on the thinking of these psychos is a real challenge." It is all too easy to dismiss mass murderers as totally irrational. But individuals who go on shooting sprees are often motivated by goals such as fame. Making it difficult to obtain those goals may discourage some from engaging in their attacks. There is also the issue of stopping attacks that do still occur. Suppose that a right-to-carry law deters crime primarily by raising the probability that a perpetrator will encounter a potential victim who is armed. In a single-victim crime, this probability is likely to be very low. Hence the deterrent

John Lott: The evidence indicates that just as crime rates are declining in counties with right-to-carry laws, adjacent counties on the other side of state borders in states without these laws are experiencing an increase in violent crime.



Source: Robert Ehrlich

effect of the law—though negative—might be relatively small.

Now consider a shooting spree in a public place. In a crowd, the likelihood that one or more potential victims or bystanders are armed would be very large even though the probability that any particular individual is armed is very low. This suggests a testable hypothesis: A right-to-carry law will have a bigger deterrent effect on shooting sprees in public places than on more conventional crimes.

To illustrate, let the probability (p) that a single individual carries a concealed handgun be .05. Assume further that there are 10 individuals in a public place. Then the probability that at least one of them is armed is about .40 (= 1 – $(.95)^{10}$). Even if (p) is only .025, the probability that at least one of 10 people will be armed is .22 (= 1 – $(.975)^{10}$).

Ehrlich claims that I fail to account for all relevant variables. Sure, there could possibly be still other variables out there, though I doubt it. The data used in the first edition of the book have been made available to academics at 45 different universities. I know of no study that has attempted to account for as many factors as I have, but if Ehrlich thinks that other factors are important, he is perfectly free to see whether including them alters the results. Other academics have tried different variables—for example, Bruce Benson at Florida State University tried including other variables for private responses to crime, and Carl Moody at the College of William & Mary used additional variables to account for law enforcement—but so far none of these other variables has altered the results.

However, the variable list that I attempted to account for is much more extensive than Ehrlich indicates. Among the factors that I accounted for in the first and second editions of my book are: the execution rate for the death penalty; conviction rates; prison sentence lengths; number of police officers; different types of policing policies (community policing, problem-orientated policing, "broken window" strategies); hiring rules for police; poverty; unemployment; four different measures of income; many different types of gun control and enforcement; cocaine prices; the most detailed demographic information on the different age, sex, and racial breakdowns of the population used in any study; and many other factors.

Discovering some left-out variable is more difficult than simply saying that other factors affect the crime rate. This left-out factor must be changing in the different states at the same time that the right-to-carry laws are being adopted. In addition, crime rates are declining as more permits are issued in a county, so the left-out variable must similarly be changing over time. Other evidence that I presented in my book indicates that just as crime rates are declining in counties with right-to-carry laws, adjacent counties on the other side of state borders in states without these laws are experiencing an increase in violent crime. The more similar these adjacent counties, the larger the spillover. Right-to-carry laws also reduce crime rates where the criminal and the victim come into direct contact with each other relative to those crimes where there is no such contact. To alter the results, these left-out factors would have to vary systematically to coincide with all these different results.

One of the reasons I graphed the before-and-after trends as well as the year-to-year variations in crime rates was to allow readers to judge for themselves whether the adoption of right-to-carry laws coincided with changes in crime rates. For a general audience, I thought that this graphical approach was the most straightforward.

As to the appropriateness of a particular statistical test, the answer depends upon what question one is asking. The one test that Ehrlich questions asked whether there was a statistically significant change in the slopes in crime rates before and after the laws are adopted. For that question, the F-test that I used is the appropriate test.

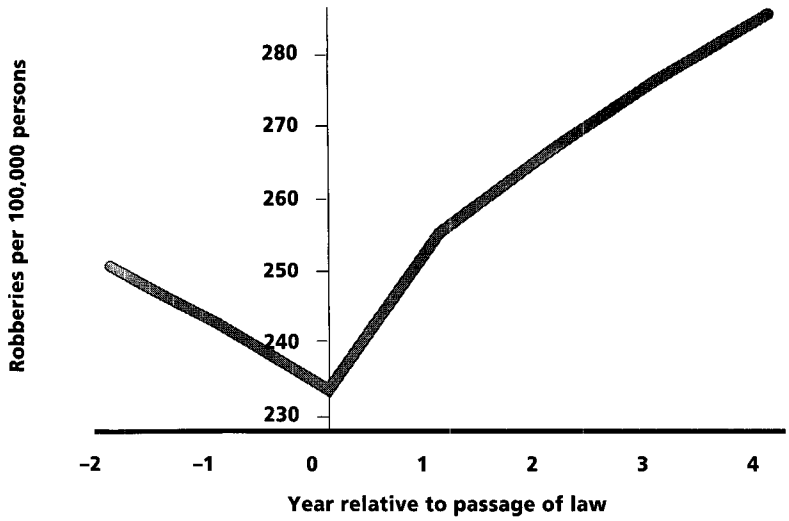
Research by Florenz Plassman and Nicolaus Tideman that is forthcoming in the October 2001 issue of the *Journal of Law and Economics* breaks down crime data by each state and by individual years before and after the adoption of the right-to-carry law. They find that for all 10 states that adopted such laws between 1977 and 1992, murder, rape, and robbery rates fell after adoption. If Ehrlich were to identify the statistical test which he says shows a significant turning point for robbery before the adoption of right-to-carry laws, I would be happy to comment on it.

It is flattering that my research is the first topic that

Ehrlich discusses in his book, *Nine Crazy Ideas in Science.* My research, however, is not alone in studying this issue. A large number of academics have examined the data. While a few academic articles have been critical of some of the methodology, not even these critics have found a bad effect from right-to-carry laws. In fact, the vast majority of academics have found benefits as large or larger than the ones I report.

What is also interesting is how little criticism there is of the other gun control topics that my book addressed. For example, no academics have found significant evidence that waiting periods or background checks reduce violent crime rates. Unfortunately, what I have found is that many of these gun control laws actually lead to more crime and more deaths.

Impact on Robbery Rate from a Neighbor's* Adoption of Nondiscretionary Concealed Handgun Laws



*defined as adjacent counties that are on opposite sides of state borders

Source: John Lott

In his book, Ehrlich awards "cuckoos" to the ideas he discusses, with one cuckoo meaning "Why not?" and four cuckoos meaning "certainly false." He gives my work three cuckoos, but there are a lot of academics who must then be in the same boat as I am. More important, his criticisms are based upon either an incomplete or inaccurate reading of my work.

Robert Ehrlich

Data Distortion

Lott's numbers don't tell us anything

I reply below to the main criticisms of John Lott—at least those which I have understood.

Lott doesn't deny that he misleads the reader by neglecting to mention that his plots are fits to the data, because he can't. His graphs are in fact labeled "number of violent crimes" per 100,000 population and I find no statement in his book that the graphs are fits, rather than actual data. In his reply, Lott justifies the use of displaying fits by noting that it is important to show "adjusted" crime rates after other variables (aside from the laws) have been taken into account.

Lott is correct that I was using the first edition of his book when I made the comment about only 10 states changing their right-to-carry laws in the stipulated time period.

Lott claims that I "used data up until 1997, but that is not possible since he limited the sample to only four years after adoption [of the laws]...." Clearly, he is mistaken, since my plots show data extending 10 years before the law's adoption.

My statement about the changes in slope in the various states was based on simple linear fits to the data two years on either side of $t=0$, without weighting the states by population. However, without doing any statistical analysis whatsoever, a mere glance at the graphs for the 10 states should allow readers to decide for themselves whether the data for the 10 states actually show anything particular happening at time $t=0$. (The data for robbery can be found plotted in my book or downloaded from the FBI Web site.)

Lott claims that his fitting procedure is not biased, because by using random data one is *not* virtually guaranteed to find a drop or a rise at $t=0$, as I claimed. Instead, he points out that the random data might show an abrupt change in the *slope*, not the actual level, at $t=0$ (e.g., first rising then falling, or first falling then rising). But Lott's correction to my statement actually makes my basic point even stronger, since a decrease in slope is exactly what might be expected if Lott were right. Thus, if his fitting procedure would force random data to show a change in slope at $t=0$—equally often an increase or decrease—we can't have too much confidence that any observed decrease in slope validates his theory.

It's difficult to find anything about mass murder amusing, but I find Lott's calculation for the greater deterrent effect of easing concealed-carry laws on multiple shootings very humorous. Essentially, he is saying that after concealed-carry laws are eased, mass murderers really are more deterred than ordinary murderers, because the chances are much greater that someone in a large group is actually armed. Now, I don't think mass murderers are totally irrational. But I find this type of probability calculation more revealing of Lott's thinking than that of mass murderers, some of whom I imagine would relish the idea of going out in a blaze of glory, in case someone in the group were armed. ("Suicide by police" seems to be a fairly common act by some psychos.)

In Lott's rebuttal on this same issue he fails to address the other inconsistency in his results: How could the laws act

in reverse time, causing a big spurt of mass shootings the year *before* the laws were enacted? He also neglects to answer my question on how his analysis can show the murder rate dropping immediately after the laws are passed, but the aggravated assault rate not starting its drop until four years later.

Lott is right in pointing out that the omitted variables would need to change systematically in a way correlated with the dates of passing the laws. But given that the laws (according to him) account for such a tiny fraction of the change in crime rates, and given an extremely long list of possible variables, it seems likely that some of them could fit the bill. If Lott's claim that he really has accounted for *all* the key variables that affect violent crime rates were correct, then he really should be able to predict how the crime rates will change in the future in each state, based on all these variables. Moreover, if his predictions fail to be borne out in any state it would show that he has left out some factor. (We are all used to hearing about why the stock market did what it did on any given day, *after the fact.* But the failure to make such accurate predictions ahead of time tells us that maybe we really don't fully understand all the variables that make the market do what it does, any more than we understand the variation in crime rates.)

I am not alone in questioning Lott's statistical analysis—see, for example, work by Daniel Webster, Jens Ludwig, Daniel Black, and Daniel Nagin. Lott notes that his F-test is the appropriate one to answer the question of whether there was a statistically significant change in the slope in crime rates at $t=0$. I don't dispute that the change in the slope of crime rates may be statistically significant at $t=0$. After all, there might have been a real change at that point in time for reasons unrelated to the laws.

However, I claim that the slope will probably also be found to change by statistically significant amounts at *most other years* as well, and that would show that there's nothing special happening at $t=0$, the year the laws were passed. The real test of whether it was the liberalized gun laws that made the difference is that a statistically significant change in slope was found at $t=0$ and *only* at $t=0$.

To see this basic flaw in Lott's statistical analysis, let's imagine that some lunatic has a theory that the Nasdaq drops every full moon. Presumably, according to Lott, the way to test this theory would be to do a linear regression involving as many extraneous variables as we can think of that might affect the Nasdaq—and not to worry too much that we may not have gotten them all. Then using the regression, we need to see if the Nasdaq had a statistically significant drop on days when the moon was full. It very well might show a statistically significant drop on those days. Why not? However, I expect that the Nasdaq would also show drops (and rises) having comparable statistical significance for other lunar phases as well—thereby proving exactly nothing.

Prof. Lott, wouldn't you agree that a finding of a statistically significant change in the crime rates at years before $t=0$ would invalidate your results? Will you tell us what your analysis shows for the statistical significance of changes in slope at years other than $t=0$?

John R. Lott Jr.

The Effect Is Clear

Disarming law-abiding citizens leads to more crime

To Prof. Ehrlich, the "basic flaw" in my statistical analysis is that concealed handgun laws are likely to be just accidentally related to changes in the crime rate. He takes a simple example of explaining how the stock market changes over time. Obvious variables to include would be the interest rate and the expected growth in the economy, but many other variables—many of dubious importance—could possibly also be included. The problem arises when such variables are correlated to changes in stock prices merely by chance.

An extreme case would be including the prices of various grocery store products. A store might sell thousands of items, and the price of one—say, peanut butter—might happen to be highly correlated with the stock prices over the particular period examined. We know that there is little theoretical reason for peanut butter to explain overall stock prices, but if you go through enough grocery store prices, it just might happen that one of them accidentally moves up and down with the movements in the stock market over a particular period of time. Similar problems can occur with other obviously unrelated variables, such as the incidence of full moons or sunspots.

There are ways to protect against this "dubious variable" problem. One is to expand the original sample period. If no true causal relationship exists between the two variables, this

Robert Ehrlich: If Lott's claim that he really has accounted for *all* the key variables that affect violent crime rates were correct, then he really should be able to predict how the crime rates will change in the future in each state, based on all these variables.

coincidence is unlikely to keep occurring in future years. And this is precisely what I did as more data became available: Originally, I looked at data through 1992, then extended it to 1994, then up until 1996, and then, in recent working papers, up through 1998. If Ehrlich understood this, he would realize that this is equivalent to his request that I should try to "predict how the crime rates will change in the future."

Another approach guarding against the "dubious variable" problem is to replicate the same test in many different places. Again, this is exactly what I have done here: I have studied the impact of right-to-carry laws in different states at different times, and I have included new states as more and more states have adopted these laws as the time period has been extended.

As I discussed previously, I have also provided many qualitatively different tests, linking not only the changes in gun laws to changes in crime rates but also the actual issuance of permits; the changes in different types of crimes; rates of murders in public and private places; and comparisons of border counties in states with and without right-to-carry laws. Even if I accidentally found a variable that just happened to be related to crime in one of these dimensions, it seems unlikely that you would get consistent results across all these different tests.

In any case, as far as I know, no one except Ehrlich is arguing that testing whether right-to-carry laws affect crime is the theoretical equivalent of including as variables such things as full moons. Whatever one's views on the topic, there are legitimate questions over whether these laws increase or decrease crime—and the only way that we can test that is to include them as a variable in the regressions.

However, the bottom line is clear: If Ehrlich believes that there is a particular variable that has been left out and that corresponds with all these changes, I have given him the data set; instead of speculating about what might be, he should actually do the work to see if his concerns are valid. No previous study has accounted for even a fraction of the alternative explanations for changing crime rates as I have and, more important, my regressions explain over 95 percent of the variation in crime rates over time.

His concerns about using before-and-after trends make little sense to me because I report the results in many different ways: linear and nonlinear trends before and after, year-to-year changes, and before-and-after averages. Readers of my book can view the graphs with the year-to-year changes and judge for themselves when the change in trends occur.

As I explicitly note in my book (pages 146–7 in the first edition), my graphs showing the nonlinear trends before and after the change in laws are constructed similarly to how other economists have analyzed crime data. No explanation is offered for why I shouldn't have focused on whether there was a decline in crime relative to other states that did not adopt the right-to-carry laws.

Ehrlich might find it amusing that deterrence does work, but the data on guns and crime consistently shows that the greater the likelihood that a person can defend himself, the greater the deterrence. William M. Landes and I point to evidence that perpetrators of multiple victim shootings are disproportionately psychotic, deranged, or irrational. Ehrlich and others claim that a law permitting individuals to carry concealed weapons would therefore not deter shooting sprees in public places (though it might reduce the number of people killed or wounded). Yet a right-to-carry law will both raise the potential perpetrator's cost (he is more likely to be wounded or killed or apprehended if he acts) and lower his expected benefit (he will do less damage if he encounters armed resistance). Even those bent on suicide may refrain from attacking if the harm that they can do is sufficiently limited. Although not all offenders will alter their behavior in response to the law, some individuals might refrain from a shooting spree.

Instead of so casually dismissing our result as "very humorous," Ehrlich and others should rise to the challenge to examine the data and see if they can offer a better explanation for the large drops in multiple-victim public shootings when states adopt right-to-carry laws. These crimes have seriously shocked the nation, and finding ways to reduce such incidents is very important.

Finally, in both editions of my book, I respond to the critics of my work that Ehrlich mentions in his last dispatch. (I direct interested readers to chapters 7 and 9 of *More Guns, Less Crime.*)

This debate has focused on just my findings dealing with right-to-carry laws, but just as important are the overall effects of gun control laws. Despite the best of intentions, law-abiding citizens, not criminals, are most likely to obey the different restrictions that are imposed. Disarming the law-abiding relative to criminals has one consequence: more crime.

John Lott: Despite the best of intentions, law-abiding citizens, not criminals, are most likely to obey the different restrictions that are imposed on gun ownership. Disarming the law-abiding relative to criminals has one consequence: more crime.

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Turn to page 82 of *How to Fight Cancer and Win* for the delicious diet that can help stop the formation of cancer cells and shrink tumors.

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—Romany S.

"I've been incorporating Dr. Budgwig's natural remedy into my diet and have told others about it. Your book is very informative and has information I've never heard about before (and I've read many books on the cancer and nutrition link). Thanks for the wonderful information."

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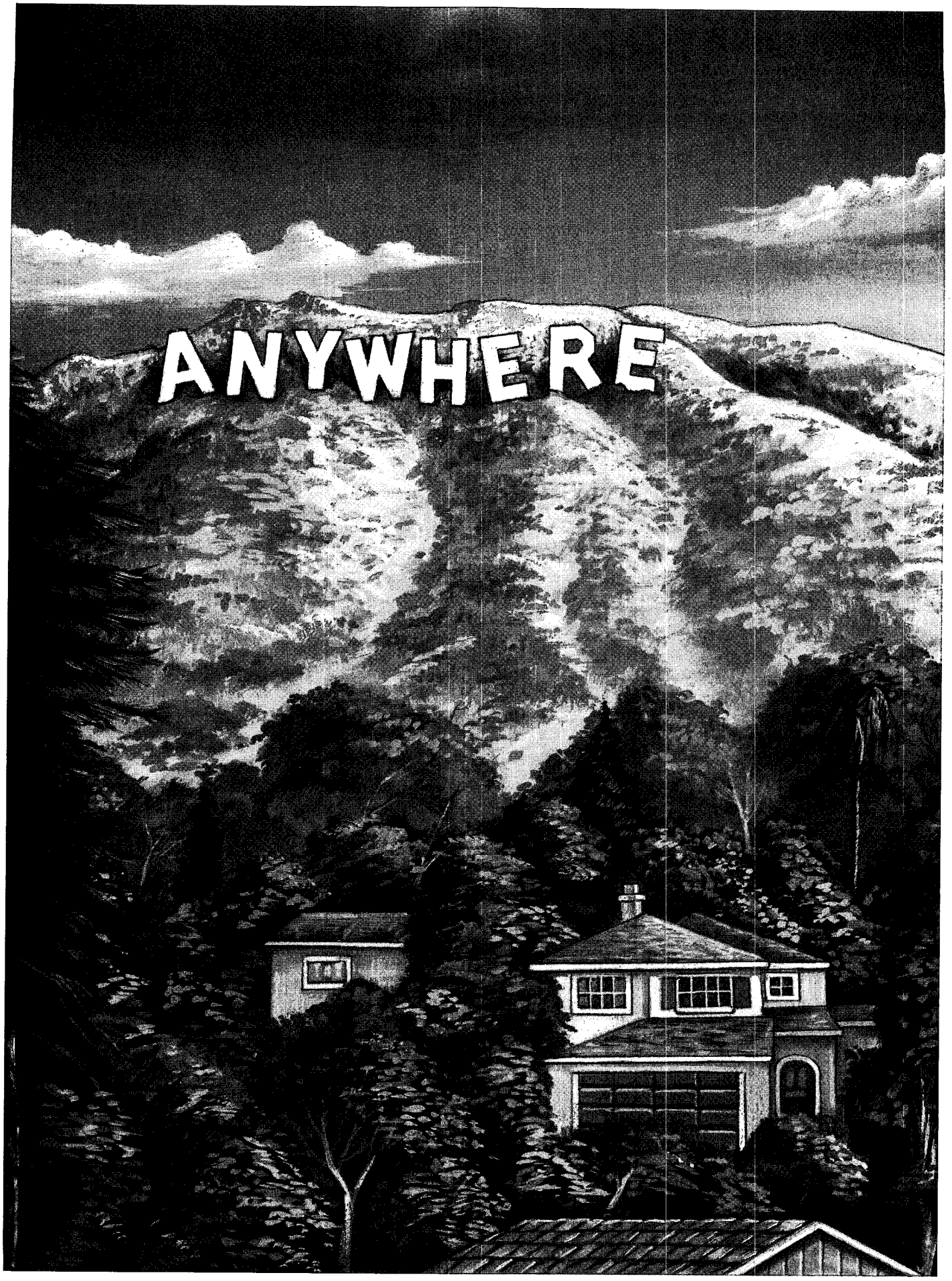

ANYWHERE

Beyond Miramax

Far from Hollywood, new filmmaking communities emerge

By Jesse Walker

In 1999, Apple unveiled a new commercial for its iMac computer. Through a video screen attached to a digital camera, we see a little boy riding a bicycle. A wire connects the camera to a desktop computer, where an unseen auteur reorders the images, adds a title, then views the result: a short film titled *My First Wheels.* Meanwhile, the voice of Jeff Goldblum translates what we're watching into a sales pitch. "This holiday season," he intones, "the most original, most emotional films may not be in theaters. They'll be on your desk. Introducing the easiest way to create and compose and edit and polish your own home movies."

Don't worry, I'm not trying to sell you an iMac. I mention the ad because it implies a number of interesting things. One is that the most ephemeral of film genres, the home movie, has undergone a radical change: It now involves editing as well as photography, allowing the domestic director to arrange his images in a coherent way. The difference between the traditional home movie and its modern descendant is the difference between a cluttered attic and a collector's den.

That in turn implies that the boundaries between the home movie and the independent film have blurred, and may soon break down entirely. In the '60s, devotees of "underground" cinema could speak vaguely of East Coast and West Coast filmmaking scenes. Today, one might find comparable communities in neighboring suburbs, each plugged into larger moviemaking networks via the Internet yet unaware of the other's existence.

So the self-publishing revolution that gave us zines and home-brewed CDs is now producing movies as well, and the number of D.I.Y. filmmakers is big enough for a major computer company to view them as a mass market worth pursuing. Yet these micro-auteurs have virtually no presence at the cineplex (except, sometimes, as an influence—witness *The Blair Witch Project*). Hollywood itself is becoming subtly indie-fied: The mammoth studios still rule the industry, but much of the work is now subcontracted to tiny, independently owned high-tech workshops, some of which have themselves become part-time mini-studios. Yet movie *distribution* has grown tighter, more centralized, and less open to outsiders.

For links to the Web films mentioned in this story, please go to reason.com/0108/cr.jw.film.html

Many articles have been written about one sort of indie-film success story: the "young," "scrappy" "maverick" whose Internet short or ultra-low-budget tape gets viewed by the right Hollywood exec, allowing the fresh-faced filmmaker to vault over those barriers and land a job assembling dream-widgets. This is not such a piece. This is about the moviemakers who don't want Hollywood jobs, or at least don't want them on Hollywood terms—about people trying to find ways around the distribution bottleneck, and the audiences that are tentatively coalescing around them.

Outside the blockbuster-oriented pop-music mainstream, there are musical subcultures devoted to bluegrass, techno, classical, punk, hip hop, folk, and jazz—smaller worlds where one can be a success without even grazing the top 40. One day, perhaps, the same will be true of film.

Movies in Cyberspace

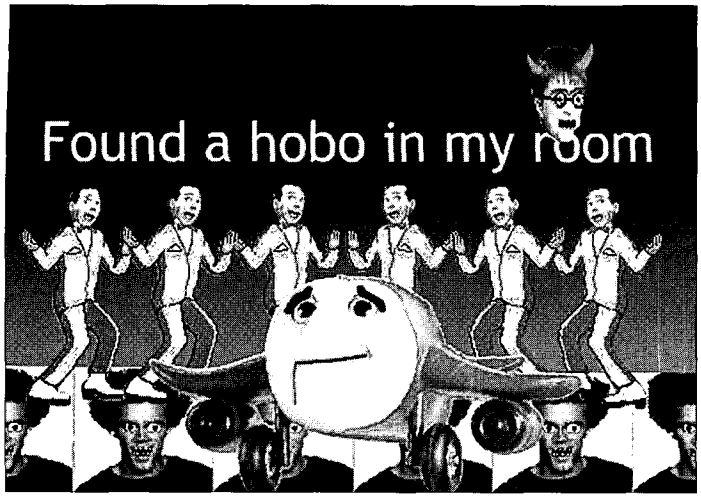
If you're interested in self-publishing, in subcultures, or in people trying to make an end-run around traditional distribution channels, the first place you'll probably think to look is the Internet. And indeed, the Net contains a vibrant virtual community of filmmakers and a horde of online movies, though not all of the latter have adjusted to the medium's demands.

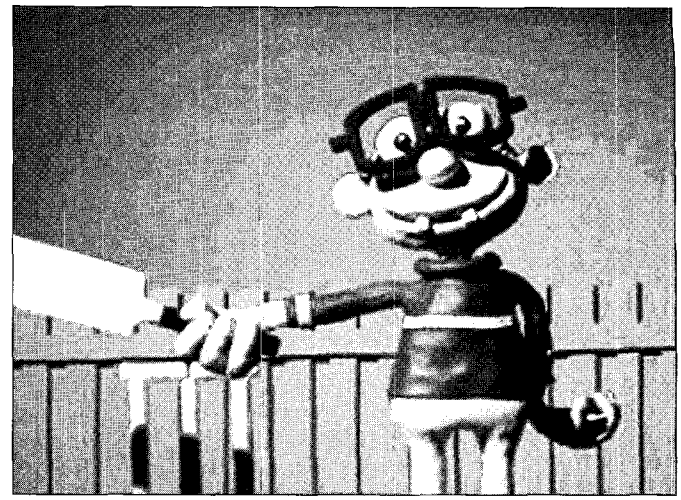
The most popular online moviemakers are the pornographers. Indeed, if you're looking for a self-sustaining film community comparable to the punk or bluegrass scenes, you needn't look further than the "adult" world, an economy with its own network of business giants and big-name stars, a market where entry is easy (stop snickering) and brand names are valuable, where amateurs and entrepreneurs alike can find audiences. Porn has taken full advantage of both home video and the Internet, and by serving as an early adopter of new technologies and an early experimenter with new business models, it has made things a lot easier for other sorts of filmmakers.

But if alternative cinema consisted only of porn, it wouldn't be worth writing about. So what else is online? A little bit of everything, from old features that have slipped into the public domain to "websodics," the cyberspace equivalent of a TV series, some of which star well-known actors or are helmed by well-known directors. (Tim Burton, for example, has made a series of online animated shorts called *Stainboy.*) The Webplex is in a state of constant flux, with older films disappearing and new ones constantly being made. But the sheer variety available never seems to diminish.

Film school students have started to put their work online. So have fan communities devoted to *Star Wars, Doctor Who,* and other movies and TV series, churning out a breathtaking volume of semi-legal spoofs, sequels, and tributes. Inevitably, some people are making movies specifically for the Web, especially now that such sites as AtomFilms and iFilm have emerged to gather such efforts under larger roofs. (Some observers wonder whether those two companies will survive the dot-com free fall. But even if they fail, that wouldn't kill Internet movies; it would

FRED SMITH





merely disperse them.)

The biggest trouble with online cinema is the conditions under which it must be viewed: a tiny screen within a screen, with the action periodically halted for "rebuffering" or rendered herky-jerky by a slow or congested connection. Some programs let you see the movies on a larger virtual screen, but they fail to improve the picture resolution in the process, thus often making the experience worse. Attempting to watch the Japanese director Hyun Kim's experimental film *Disconnected*, I gave up after less than a minute: The subtitles were either too tiny to be deciphered or—if I blew up the picture—too blurry.

As a result, the most successful Net films—the ones that get e-mailed from friend to friend and watched between office tasks—tend to be short, visually uncomplicated, and, ultimately, trivial. That doesn't mean, of course, that they can't be enjoyable. Some even turn their triviality into a virtue. This is especially true of those cheap, primitive-looking "movies" made with flash animation, in which cut-out figures glide awkwardly around the screen.

The hilarious *Hyakugojyuuichi!!* (2001) —directed by the prolific Neil Cicierega, who informs inquirers that he's a homeschooled 14-year-old from Massachusetts —stars Elton John as the Devil and Colin Mochrie (better known as "the bald guy on *Whose Line Is it Anyway?*") as the Sun, plus a pacemaker, a singing airplane, a trio of Pee-Wee Hermans in an ambulance, and a horde of Harry Potters in midair. Their performances are choreographed to a ridiculous but strangely catchy song from *Pokémon*, which the film occasionally "translates" from Japanese into nonsense-English ("It's Princess Leia/The yodel of life/Give me my sweater back/Or I'll play my guitar").

Confronted with the above, *Salon* half-seriously commented that Cicierega's movies "can easily be viewed as biting satires of the American media, trenchant observations about consumer culture—or, at the very least, clues to unlocking some of the universe's deepest mysteries." In its non-linear, dadaistic way, *Hyakugojyuuichi!!* feels like it's infused with some kind of meaning, trivial and semi-random though it may be. If it were screened at film festivals, audiences would treat it as a legitimate piece of avant-garde art, pointing out its similarities to the work of such earlier experimentalists as Bruce Conner. Instead, we regard it as yet another funky artifact on the Web: weird, entertaining, and not really "art" at all. And we forward it to our friends, and they forward it to their friends, and the movie reaches more eyes than it ever would have crossed if it were stuck in the avant-garde ghetto.

Other flash-animation pieces range from last year's pro-Napster *MettaliCops* series to Daniel Hamilton's highly entertaining *Journey: A Tribute to America* (2001), an ineffable film inspired by the 1981 hit "Don't Stop Believing." (The latter feels like a piece of outsider art, apparently by design. "I was thinking about the idea of the 'untrained web artist,'" Hamilton explains, "like folk art meets the Web.")

Non-flash Web movies often resemble their more primitive counterparts in their visual simplicity, if nothing else. Consider the Australian director Adam Benjamin Elliot, whose stop-motion claymation films about his family are crafted with much more sophistication than any flash film, but are nonetheless stark and uncluttered. His 1998 effort *cousin*, a touching but unsentimental short about a boy with cerebral palsy, is, in effect, an illustrated memoir: The narrator reads an essay about Elliot's relative while the clay figures offer a visual counterpoint to the actor's words.

Films on the Side

Not that such creativity is typical. The great bulk of online filmmaking, alas, is derivative and dull. Jeff Gurwood's *Covert Operatives* (2000), a tongue-in-cheek tale about a "Social Anarchist Front" bent on world domination, is notable for its elaborate sets and its stop-motion photography. (All the "actors" are toy action-figures.) But though the plot and dialogue are supposed to mock those movies that skip theaters and go directly to the USA Network, they feel more like a pale imitation than a parody.

On the other end of the spectrum, Alexander Pappas' *Timescape* (2000) is one of the most popular pictures in iFilm's "experimental" category. Consisting entirely of time-lapse photography, it is, to quote its Web site, "a sort of Day in the Life of a city." But what's so experimental about that? Many movies like it have been made before. At this point, you can see this kind of stuff in TV ads.

But there's still room online for small bursts of brilliance—for *Hyakugojyuuichi!!*, or for *cousin*, or for Dave Kurman's poetically paranoid *...and I* (1999). Kur-

man's film begins with a man noticing a figure outside who appears to be pursuing him; more frightening still, the pursuer appears to be himself. The protagonist tries to flee, but the pursuer bursts into the room where the man is hiding—only to find it empty. He looks out the window and sees a figure outside who appears to be pursuing him, and we realize that we're back where we started.

Kurman's simple but effective short plays well on the Web, but it wasn't made with the Internet in mind. Kurman originally shot the film (for about $20) at the request of an employer, who thought it would be nice to have a video installation in the lobby; originally, it was to be not a two-minute short but a continuous, theoretically infinite loop. Then Kurman got a new job, and his film became an online effort instead.

Now 27, Kurman made his first movies in his early teens, ripping off Monty Python sketches with his friends. With time, his efforts grew more sophisticated, and he started screening them in 1998, when *The Apartment War*—a comedy made with frequent collaborator Ben Jurin, about an apartment that attempts to secede from the United States—went on the festival circuit. Kurman now earns his keep in Web-based advertising while making movies on the side, a combination he says he likes. "I love the idea of film as a full-time hobby," he explains. "I usually make one or two films a year, and while I'm making the film, that's sort of my job. But I like having this other avenue to work in, too."

At the moment, *...and I* is Kurman's only online effort. It is also his most atypical: Most of his films are comedies influenced by Python and *The Kids in the Hall*. But simply by virtue of being online, it has brought him attention. Someone from the PBS show *Image Union* saw it, and the program intends to broadcast it in the fall. The short has also gotten him invited to more festivals.

Above all, it has brought him a lot of useful feedback. At festivals, Kurman complains, it's easy to get lost in the pack. In the much more populous online world, paradoxically, it's easier to stand out—and to find, and interact with, an interested audience. "One of the great things online," he reports, "is that people can be very free with their comments. Lots of different people who have no idea who I am and will never meet me can say, 'Hey, that was very cool' or 'It would have been cooler if you'd done this.' I really value that kind of feedback because you can be totally open, and there's absolutely no prejudice."

So where is this heading? Mainstream success? A diverting hobby, like woodworking on weekends? Or somewhere else altogether? "I'm not looking to make a million dollars or make something that everyone's gonna love," Kurman says. "Medium-sized success is what I'm shooting for. The sort of films that I make are only going to appeal to a certain audience, but the people they appeal to—they're going to be really into them. That's my measure of success: If 10 percent of the people who see it absolutely love it, I don't care if the other 90 percent hate it."

Life on the Road

Most of those films aren't going to go online. At 20 minutes or more, they're simply too long, Kurman feels, for the medium. A better option might be videotape.

As on the Web, several subcultures can already view a rich selection of the movies they want on tape, even if the films rarely turn up in theaters. One such category, again, is pornography. Another is Christianity, which has inspired videos ranging from apocalyptic thrillers (*The Moment After*) to syrupy stories for children (the *Veggie Tales* series). But for artists interested in topics less popular than sex and God, videotapes pose a few problems. One is the trouble you'll have getting viewers to shell out $15 for a movie they'll likely watch only once. Another is getting rental stores to buy a video that people haven't heard of and aren't likely to ask for. And it's easier—and free—to watch an online film than one you see advertised in a movie magazine.

This last barrier might be avoided by putting samples of your work online but saving the full films for other venues. The San Francisco writer-director Danny Plotnick, 35, has done that. But he has a more intriguing method of getting the word out about his films as well. For nearly a decade, he's been taking them on tour.

The idea is not new: There was a time when even some Hollywood epics went on the road, traveling from town to town like a circus troupe. But Plotnick seems to be taking his cues not from any cinematic tradition, but from the music world. Just as a local band tries to extend its audience and sell a few CDs by hitting the road, Plotnick packs a projector, his films, and some videotapes to sell, then starts driving. Mostly, he tours the West Coast—"logistically, it's the simplest"—but he has also made it to other parts of the country, and even, twice, to Europe.

Sometimes he screens the films in a proper theater. Other times, he has to make do with smaller venues. I first became aware of his work because I happened to be in Shreveport, Louisiana, the night he was showing his movies in the back room of a local café. I liked most of them, and I thought one—*Pipsqueak Pfollies* (1994)—was exceptional. A 24-minute picture that, in Plotnick's words, "painstakingly details all the crap little kids can get away with," it's not merely clever, well-crafted, and funny, but genuinely insightful.

The boundaries between the home movie and the independent film have blurred, and the number of D.I.Y. filmmakers is big enough for a major computer company to view them as a mass market worth pursuing.

When Plotnick started making movies, in the late '80s and early '90s, there was less room at festivals for films with a punk/alternative aesthetic. "So," he recalls, "we decided, 'OK, the network doesn't exist for us—let's create our own.'" The first result, in his case, was a tape called *Small Gauge Shotgun*, compiling shorts by Plotnick and the Chicago director Jim Sikora. Plotnick did his first tour to promote the video. He

also sent it to several film and music magazines. The latter, he discovered, were more supportive, something that has remained true throughout his career. Most of his movies don't deal with music, but they still fit the sensibility of the indie-rock world, and they've gotten most of their publicity from such magazines as the punk mainstay *Maximum RockNRoll.*

Today, Plotnick makes a living coordinating workshops at San Francisco's Film Arts Foundation, while doing his own films in his spare hours. There's a strong filmmaking community in the Bay Area, he reports; and there's an increasingly strong national community of punk filmmakers as well, with their own festivals and their own approach to getting their pictures seen. "People have really grasped onto touring and alternative distribution in the last three or four years," he says. "I get a lot of calls from other filmmakers who want to do tours and want advice."

But there are still gaps in the path, barriers keeping the movies from some of the people most likely to enjoy them. Plotnick hopes that will eventually change. "The independent music world is a pretty good model," he remarks. "When that took off, it was a network of independent labels, distributors, stores, magazines, and venues, all feeding each other. But in film there isn't really any video 'label,' so to speak. There's one or two people doing interesting things, but they're dealing with the regular distributors."

Meanwhile, Plotnick is starting to make more use of the Internet. This year, for the first time, he has put an entire film online. It's a new short called *Tour Tips,* made with a flash-like tool called aftereffects animation.

Pictures as an Exhibition

Antero Alli, 48, has been making movies for about a decade, but you shouldn't expect to see many of them online soon: He's happy to use the Web to draw attention to his work, but he has no interest in actual Webcasting. In the past, he has released a few pictures on videotape, but lately he's decided not to do that either. "I've come to the conclusion," he says, "that I'm an exhibition filmmaker. I make specifically for projection onto en. That includes everything from ing to the composition of the frame. The depth, the sound, the narrative—all of it, as an expression of my so-called art, for me demands a large screen and a very big speaker system."

Alli has another reason for preferring public exhibitions, one that invokes the people facing the screen rather than the screen itself. "I'm a great believer," he explains, "in this 20th-century ritual of a dark, cavernous room full of strangers, all looking through the same window. I think it's an important social ritual worth preserving, and I see it in some ways being threatened, or its value diminished, by more convenient Internet streaming and video-on-demand."

In that sense, his stance is a philosophic one, even if it means limiting his audience to those who can make it to screenings in Berkeley (where the Finnish-born filmmaker now lives) and selected other cities. (Like Plotnick, Alli takes his movies on tour, though he pretty much sticks to the West Coast. For eight years, he's also run the Nomad Videofilm Festival, an annual traveling show featuring an assortment of short films and videos from around the world.)

If Plotnick looks to independent music for a model, Alli's framework comes from theater. He has acted in and directed plays since the '70s, often combining live theater with projected moving images. If you're used to working in a live art form that can't be mass-produced, it's no small leap to treat your video work the same way.

His latest feature is *Tragos* (2000), an inventive two hours of myth, science fiction, and *film noir.* In it, a cult of "technopagans" spends its nights communing with Tragos, a virtual-reality device that tests one's ability to distinguish the virtual from the real, forcing its users to fight for their consciousness while they're plugged in—and enhancing their awareness of the real, and their disdain for the virtual, during their waking hours. After one session, the cult leader loses her sight and her sister dies; further deaths soon follow. A witch hunt ensues, led by a fiercely Christian prosecutor who regards Tragos and the technopagans as Satanic threats to public morals.

In rough outline, the story might sound like an opportunity for countercultural self-congratulation, with heroic pagans fighting off an oppressive church. Yet the prosecutor, though misguided, is one of the most sympathetic characters in the movie, and the priest who regularly gives him advice offers nothing but wisdom. In a film about scapegoating, Alli seems intent on making his audience consider its willingness to scapegoat as well. The cult leader, meanwhile, is clearly on the brink of madness. The film may sympathize with her, but her personality has more than a few shades of gray. Alli clearly has ideas to present, but they often take the form of questions, not answers.

And there is another character, an unemployed actor who hopes to play a detective in a Woody Allen movie and who prepares for his audition by living the part. Unaware that the actor isn't a real investigator, the prosecutor hires him to infiltrate the Tragos cult. Besides offering comic relief—the dialogue between the prosecutor and the faux detective is often very funny—this portion of the plot adds another dimension to the story, giving us a viewpoint character who isn't really affiliated with either the Christians or the pagans, though he must pretend to side with both.

Tragos was made for about $7,250, and though it features some visually interesting special effects, they were actually among the picture's least costly expenses.

Obviously, it represents a revolution in filmmaking, a series of technological changes that have made it much cheaper to make a complex, feature-length movie. Less obviously, it represents a challenge to conventional ideas about how and why to reach an audience.

"The only use I have for money, quite frankly, is to pay my survival bills and to fund my movies," says Alli. "I'm pretty low-maintenance. As for fame and recognition, I don't really have that much use for it, with the exception of wanting my name known as an exhibition filmmaker so people can come see the movies in the only places where they're shown."

If the boundaries between the home movie and the independent film are breaking down, then this is another consequence of that: Not just home movies transformed, via the Net, into pop phenomena, but an increasing number of serious film artists with little or no interest in reaching a mass market. Not just *Hyakugojyuuichi!!*, but *Tragos.*

Other arts have long had space for both. For a long time, it looked like film would have little room for either.

Jesse Walker (jwalker@reason.com) is a REASON *associate editor and the author of* Rebels on the Air: An Alternative History of Radio in America, *forthcoming this fall from New York University Press.*

Chad All Over

Assessing the 2000 presidential election

By John J. Pitney Jr.

I had two reactions to the post-election struggle of 2000: elation and nostalgia. The elation came from years of teaching an introductory American government course, in which I always noted that the winner of the popular vote might still lose in the Electoral College. Gore's half-million-vote margin now allowed me to utter the five favorite words of teachers everywhere: "See, I told you so."

The nostalgia came from my hometown of Saratoga Springs, New York, where electoral shenanigans are a cherished part of local history. As a kid, I loved my grandfather's stories from the 1920s and 1930s, when poll workers used clever sleights-of-hand to spoil ballots marked for the "wrong" candidates. During the Florida recount, there was a familiar ring to news about manhandled punchcards and devoured chads. If heaven gets CNN, Gramp must have had great fun.

Most people, however, were less enthusiastic. By Thanksgiving, everybody had already heard enough jokes about Katherine Harris' makeup. The "Presidential Couple" sketch with Will Ferrell and Darrell Hammond was hilarious the first time, on *Saturday Night Live*, but it got more than a little tired after its 100th airing on MSNBC. And anyone following the news must have gotten sick of reading that the contest was a "civics lesson." A Nexis search reveals that the phrase turned up 158 times in major newspapers between Election Day and the end of the year.

Bush v. Gore: The Court Cases and the Commentary, edited by E.J. Dionne Jr. and William Kristol, Washington: Brookings Institution Press, 344 pages, $15.95

Deadlock: The Inside Story of America's Closest Election, by the political staff of The Washington Post, New York: Public Affairs, 271 pages, $23

Smashmouth: Two Years in the Gutter with Al Gore and George W. Bush, by Dana Milbank, New York: Basic Books, 399 pages, $26

36 Days: The Complete Chronicle of the 2000 Presidential Election Crisis, by correspondents of The New York Times, New York: Times Books, 380 pages, $15

With the trauma of all that media overkill still relatively fresh, is there anything new to say about Election 2000? No matter what we learn from these four new books on the topic, we will have to wait longer for a truly definitive treatment of the 2000 election. It takes more than a few months to gain perspective and sort out the significant from the momentarily interesting. In a presidential race, as with any historic event, a good deal of relevant information does not surface until much later. Yet, if it's too early to provide all the answers about the election, these books are still valuable for the issues they raise, especially with regard to events in Florida.

Bush v. Gore reprints the full text of key legal documents, as well as dozens of op-ed articles. *36 Days* serves up *New York Times* reporting between the election and the final Supreme Court decision. If not exactly beach reading, both are highly useful reference works. *Deadlock* is a bulked-up version of an eight-part series in *The Washington Post.* It sums up the whole post-election 2000 saga in a smooth, readable narrative, including tidbits that did not become public while the controversy actively raged. We learn, for instance, that some of Bush's lawyers initially thought that the equal protection clause of the Constitution was a lame basis for challenging the hand counts.

Smashmouth, the only one of the four to focus on the campaign itself, not just the Florida imbroglio, derives from Dana Milbank's articles in the *Post* and *The New Republic.* In the tradition of *Trail Fever*, Michael Lewis' book on the 1996 race, *Smashmouth* forgoes straight reporting in favor of side (and often snide) commentary. Where Theodore H. White depicted presidential campaigns as pageants, the *Trail Fever/Smashmouth* genre treats them as freak shows. Like its predecessor, *Smashmouth* is generally amusing, but sometimes it's nasty for no good reason. Milbank quotes a bystander's description of Steve Forbes' campaign workers as "*die Jungen*," adding that "there is something very Germany 1938 about them." Steve Forbes as a terrifying, violent spellbinder? Milbank must have had a traumatized childhood, cowering at the sight of Mister Rogers and Captain Kangaroo.

So why was Florida so screwy? Many suspects are trotted out: the obsolete equipment, the odd political culture of

go to 69

Ifs and Butts

How smoking became the target of unfiltered malice

By Charles Paul Freund

"Smoking is an intrinsic part of modern culture," writes *The Wall Street Journal*'s Tara Parker-Pope in her new book, *Cigarettes: Anatomy of an Industry from Seed to Smoke* (New Press, $24.95). "For 500 years, smokers and tobacco makers have risked torture and even death at the hands of tobacco's enemies, so it's unlikely that a bunch of lawyers and politicians and the looming threat of deadly disease will fell either the industry or the habit. When the smoke clears from the Tobacco Wars, the last man (or woman) standing may well be a smoker with a cigarette in his (or her) hands."

Parker-Pope deserves credit, because in a discussion as saturated with malice and falsehood as the cigarette debate, expressing even a banal truth requires courage. But don't let the passage fool you: This is the *last* paragraph of her book, and there is precious little like it in the 167 pages that precede it. It's an afterthought. Had it been the *first* paragraph, had it been the premise from which she proceeded, Parker-Pope's short, mainstream inquiry into smoking as a practice and as a business in "modern culture" might have staked out some more adventurous journalistic territory.

Assume, as five centuries of evidence amply demonstrates, that many people use tobacco because they want to, that they smoked long before there was an industry to beguile them into it, and that they pursued the practice in the face of potential execution (under certain Ottoman sultans, for example), never mind exorbitant taxation. What then is the most interesting contemporary tobacco business story? Big Tobacco settlements? Hardly. The most interesting—because the most revealing—story involves the immense undercover transfer of cigarettes from (relatively) low-tax regions to high-tax localities.

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There is now an exploding black market in smoke all over the world. Europe's Chunnel, for example, is a regular Tobacco Road, delivering more-affordable smokes (and alcohol) to Britain's absurdly overtaxed customers. So much of Canada's tobacco business has shifted to the black market that our neighbor actually *lowered* its taxes to recoup the loss to its treasury. New Jersey's cops have stopped so many trucks bringing illegal cigarettes north from Virginia and North Carolina that the state has had to build warehouses to contain this "evidence." It is in these warehouses, in the Chunnel, and on the Internet's numerous discount-cigarette sites that the new business in smoke confronts the current prohibitionist culture, and demonstrates which will eventually prevail.

Assume, with Parker-Pope, that smoking is an intrinsic part of the culture. What, then, is the most compelling contemporary prohibitionist story? Big Tobacco's whistleblowers? Not remotely. The most compelling—because the most revealing—such story involves prohibitionism's unconcealed malice. Not content with peddling highly questionable numbers concerning secondhand smoke and medical costs, antismoking extremists freely libel their critics as paid industry propagandists.

Not content with criticizing tobacco ads, they have airbrushed cigarettes out

of the very mouths of the musicians (Robert Johnson) and artists (Jackson Pollock) on our postage stamps, infusing two-bit Stalinism into American life. Not content with having driven smokers from their workplaces into the street, they now wish to disburse them along the sidewalks.

Not content with having engineered, by means of the recent settlement, an enormous wealth transfer from the lower-middle class to the litigation class, some prohibitionists now seek to charge smokers a deposit on butts, others are seeking ways to prevent public employees from smoking in their homes, and a few elected lunatics are attempting to prohibit smoking in any public place.

Where authority goes, collaborators follow with glee. We have experienced the rise of a nonsmoking enforcer class, of hectors and informers who cannot abide the presence of smokers.

But the most striking result of prohibitionist malice is cultural: the establishment of a nonsmoking identity that, just a decade ago, did not exist. People who dislike smoke, much less those made ill by it, deserve consideration. Early attempts to create smoke-free spaces were not unreasonable. But the EPA's secondhand smoke findings—currently under litigation—ended what had been a disbursed and self-organizing effort by people to accommodate one another, and set in motion a prohibitionist juggernaut. Smoking cops, working undercover, now trawl California's bars, while those bars have responded with phone trees to warn one another, exactly the way speakeasies did during alcohol prohibition.

Where authority goes, collaborators follow with glee. Thus we have experienced the rise of a nonsmoking enforcer class—Christopher Hitchens calls them "moral cretins"—of hectors and informers, people who cannot abide the presence of smokers even if they must use binoculars to find them. The most outstanding feature of the new virtue-mongers is their pretense to a painfully exquisite sensibility. Surely not since Edgar Allan Poe created the preposterous Roderick Usher, who had to conceal himself in the falling family manse lest his delicate senses be deranged by humanity's sights and smells, have we seen such exquisiteness abroad. Americans can't walk past a knot of smokers without fainting? Who's kidding whom? The continuing efforts to manipulate smokers have little or nothing to do with health, but everything to do with malice impersonating its twin, virtue.

Assume, finally, that when this crusade eventually ends, the last person standing will be smoking. That's what Parker-Pope suggests. What will be the most interesting thing about that smoker? That he or she is an addicted, weak-willed degenerate in the occult thrall of ads? No. The most interesting thing—because it is true—is that smokers smoke because they get something out of tobacco's psychoactive ingredients, and are always balancing those benefits against the well-known risks.

In fact, Parker-Pope actually recognizes this. She has mined David Krogh's excellent 1991 book, *Smoking: The Artificial Passion*, and reports its various findings: that smoking can be either calming or intensifying, that it can increase productivity, that it can help generate a more relaxed environment (for pleasure or for work). Indeed, Parker-Pope is so taken by this sort of information that she singles out Krogh's work as "the most extraordinary book I came across in my research." (She also came across REASON Senior Editor Jacob Sullum's indispensable *For Your Own Good*, which she at least references.)

In other words, Parker-Pope recognizes the futility of this crusade, and the kind of information that would make the current debate sensible. Hers is not a bad book, but it could have been a better one if only she'd written it backwards. ◆

Charles Paul Freund (cpf@reason.com) is a REASON *senior editor.*

Florida in general and Miami in particular, the partisan loyalties of the state's Democratic attorney general and Republican secretary of state. It's a mistake, however, to focus on Florida's peculiarities; since the only unusual aspects of its tally were its pivotal role in the presidential race and the amount of attention it drew. By historical standards, Florida did a fine job. In 1948, Lyndon Johnson won his Senate seat through massive fraud, which included one precinct where (through sheer coincidence, I'm sure) dozens of voters signed the rolls in alphabetical order with identical handwriting.

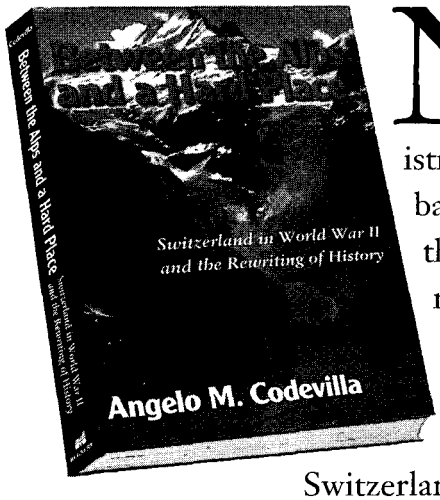
Florida was by no means the only state using voting machinery that invited tabulation error and voter confusion. More than 2 million ballots nationwide did not register a vote for president. One Indiana election official told *The New York Times*: "You know why we never paid attention to this until now? I'll tell you: because we don't really want to know."

Despite the forests felled in writing about this election, few observers spotted the underlying reason why so many things went so wrong in so many places. Governments run elections. If governments botch most of the things they do, why on earth should we expect them to become models of honesty and efficiency when it comes to choosing the people who lead them?

An election is an exercise in counting large numbers of data points. Whether the data involve groundwater toxins, technological exports, illegal aliens, sexual assaults, or enemy casualties in wartime, governments have a shaky record in getting the numbers right. In 1929, the English economist and statesman Josiah Stamp put it this way: "The government are very keen on amassing statistics. They collect them, add them, raise them to the nth power, take the cube root and prepare wonderful diagrams. But what you must never forget is that every one of these figures comes in the first instance from the village watchman, who just puts down what he damn pleases."

In Florida, the ambiguity of state law compounded the basic difficulty of getting accurate totals. As the Florida Supreme Court explained, the time frame for conducting a manual recount conflicted with the time frame for submitting county re-

The Truth about Switzerland



Noted author Angelo Codevilla shows that the Clinton administration's pressure on Swiss banks to pay reparations for the Holocaust was a service rendered to its biggest campaign contributor, and contradicted established American policy toward Switzerland. *Between the Alps and a Hard Place* sets the record straight.

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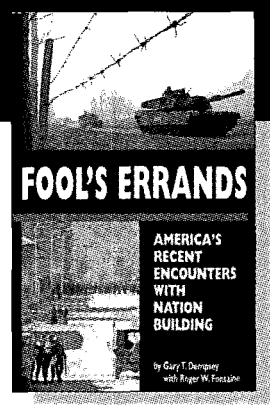

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turns. Once again, the problem is hardly unique either to Florida or to election law, since murkiness pervades many state and federal statutes on a wide range of topics. Consider the U.S. tax code, which Congress "simplified" in 1986. It is so confusing that when Treasury Department investigators posed as ordinary citizens asking about their 2000 taxes, IRS employees gave wrong answers nearly half the time.

Speaking of confusion, consider the infamously perplexing "butterfly ballot." It was not a bit of Republican skullduggery—the designer was a Democratic official—but instead was the unanticipated consequence of good intentions. In *Deadlock*, we read that a recent change in Florida law eased access to the state's presidential ballot, meaning that voters could choose from 10 candidates instead of three or four, as in past years. But fitting all those names on the ballot might require smaller type, which the Palm Beach County election supervisor thought would vex elderly voters. Accordingly, she split the ballot into two facing pages, with one column of punch holes in the center and arrows showing which holes corresponded with which candidates. As we now know, this design befuddled thousands of voters, who may have voted for Pat Buchanan when they meant to vote for Gore.

If governments botch most of the things they do, why on earth should we expect them to become models of honesty and efficiency when it comes to choosing the people who lead them?

Expanded ballot access: good intention. Large type for the elderly: good intention. Have government mix them, and you get a fiasco. Sounds like the history of public housing.

Rocky outcomes become even more likely when government indulges in

rushed, last-minute decisions. One cause of the 1980s savings-and-loan crisis was an 11th-hour addition to a 1980 financial services bill that raised the cap on federal deposit insurance. Lawmakers did not stop to think that the measure would encourage S&L operators to gamble with deposits, since the operators knew that Uncle Sam would cover their bets. Similar haste characterized court decisions in the Florida case. At the prompting of Al Gore's legal team, the Florida Supreme Court cited an Illinois court decision that seemed to say that ballot dimples should count as votes. In fact it said no such thing.

Time pressures also scarred the work of the U.S. Supreme Court. Knowing that they are setting law for the ages, the Supremes normally take weeks or months to polish their decisions and opinions. This time, they had days and hours. As any college professor can tell you, all-nighters seldom result in good papers. In one of the essays in *Gore v. Bush*, constitutional scholar Richard Epstein writes that the Court produced "a potpourri of decisions that can only confuse an electorate that has grown weary of this circus." With more time, the Court might have built a stronger majority around something other than the equal-protection clause, which struck many legal observers as dubious.

Another key element in why the post-election mess played out the way it did was the military mindset of the combatants. In describing oral arguments before the Court, *Deadlock* says that "lawyers marched onto the field like rank upon rank of well-drilled cadets." This language is typical of all four books, which abound in military metaphors.

Just before the Supreme Court halted the recount, says *Deadlock*, Bush operative Joe Allbaugh organized an "airlift" of watchers. Allbaugh later explained, "We were moving and mobilizing an army." In an op-ed in *Bush v. Gore*, Ron Brownstein writes of "this war for the White House." Two other articles accuse Gore supporters of attempting a "coup." In *36 Days*, we see accounts of "nuclear button options" and such headlines as: "GOP LAUNCHES MULTIPLE LEGAL ATTACKS" and "GORE SET TO FIGHT ON MANY FRONTS." In *Smashmouth*, Gore operative Michael Wholey reflects on strategy on the early Democratic primaries: "If we lose at first, it becomes World War I, a delegate race, winning through attrition."

CHIP BOK

Why all the war talk? Politics, like war, is a zero-sum struggle involving high stakes, huge costs, and masses of people. Concepts from the military, then, can help us understand the 2000 campaign and its aftermath. As Gen. George S. Patton said, "Speed is the essential element of success." Military leaders have always seen speed as a "force multiplier," allowing one side to seize ground while the other is still getting ready.

According to a retrospective article in *36 Days*, Gore campaign chief William Daley was gearing for battle before sunrise on the day after the election: "Bleary, stunned and emotionally spent, Daley and the others began to construct a plan. Speed would be critical." They seemed to have the upper hand until Democratic efforts to invalidate military ballots turned public opinion against them. "The Bush team had gotten a slow start in the PR war," says *Deadlock*, "but here was a powerful new arsenal to fire off at Gore."

The Republicans took the advice expressed by radical community organizer Saul D. Alinsky: "Wherever possible go outside the experience of the enemy. Here you want to cause confusion, fear, and retreat." As *Deadlock* and *36 Days* show, Republicans organized boisterous protests, stunning Democrats who did not expect such a show. They claimed that a Republican "riot" intimidated the Miami-Dade canvassing board into halting its recount, but their desperate accusation flunked the giggle test. (Chants and placards from people clad in Brooks Brothers suits just didn't look scary on TV.)

Another independent effort employed guerrilla tactics. Dave Enrich and Matt Grossmann, two seniors at Claremont McKenna College, started a Web site listing the names and addresses of Bush electors. It urged citizens to write the electors and ask them to switch their votes on the grounds that Gore won the popular vote. Though the effort failed to flip any electors, its ingenuity and chutzpah gained extraordinary publicity in major national newspapers and on network news. (I bear some responsibility here: Both had taken my intro course in which I talked about the Electoral College.)

In military leadership, character counts. The armed services stress character in training and promotion because people are more likely to follow leaders who display integrity and perseverance. Milbank points out that a tough campaign lets a candidate "demonstrate and build leadership qualities." As *Deadlock* notes, Gore showed those qualities more clearly *after* the election than before: "Again and again,

his aides found themselves amazed by his consistency, his decisiveness during the War for Florida." His post-election steadiness "confirmed something that Gore's troops had long suspected—he was happier and more effective when he wasn't asking people for their votes."

Bush also came across sturdier during the Florida struggle than during the campaign itself. Early in the campaign, his sometimes-fractured language led one network producer to dub him "the English patient." Milbank lists some of the Bushisms—"terriers and bariffs" instead of "tariffs and barriers"—that made him a late-night comedy hit and led some critics to regard him as an amiable, thoughtless goofball. After the election, Bush demonstrated a reassuring calmness and concern for others. Like a good general, *Deadlock* observes, "Bush considered morale one of his most important jobs."

The military metaphor brings us back to our first point: the basic messiness of the electoral process. Warfare, after all, is a function of government. Like everything else that government does, it involves uncertainty and error. So do campaign politics. *Deadlock* and *36 Days* both close with analyses of the strategic and tactical errors that may have shaped the outcome, such as Gore's initial failure to seek a statewide recount. In none of the books do we get a firm answer to the Big Question: Who really won? We may never know whether Gore's mistakes outweighed Bush's mistakes, since the mistakes of the electoral process left a permanent fog over the outcome.

Winston Churchill perhaps offered the best epitaph for the 2000 election: "Nothing but genius, the daemon in man, can answer the riddles of war...and since that quality is much rarer than the largest and purest diamonds, most wars are mainly tales of muddle."

Contributing Editor John J. Pitney Jr. (jpitney@mckenna.edu) is professor of government at Claremont McKenna College.

How the East Grew Poor

Imperial weather and the poverty of nations

By L. E. Birdzell Jr.

The "development gap" that divides advanced nations from the Third World in income, wealth, and many other measures of human welfare is a scandal of both politics and economics. The present magnitude of this gap is indicated succinctly, though incompletely, by comparisons of per capita gross national product: $450 for India, $780 for China, and $22,640 for the United Kingdom, according to 1999 World Bank figures.

Mike Davis' new book, *Late Victorian Holocausts*, is one of several recent attempts by sensitive Westerners, among them David S. Landes and Jared Diamond, to demonstrate that this gap is no fault of the Third World countries, nor due to any superiority of the West except in the arts of war and oppression. Davis became widely known for his contrarian views of urban growth and planning in Los Angeles, expressed in *City of Quartz* (1990) and *Ecology of Fear* (1998). In his preface, Davis offers a "key thesis" that "income and wealth inequalities" between the Third World and the rich economies "were shaped decisively in the last quarter of the nineteenth century, when the great non-European peasantries were initially integrated into the world economy."

Late Victorian Holocausts : El Niño Famines and the Making of the Third World, by Mike Davis, London and New York: Verso Books, 464 pages, $27

Davis claims that the difference in living standards in 1789 between a French *sans culotte* and an Indian farmer of the Deccan plain were "insignificant" compared to the difference between them and their respective "ruling classes." In contrast, by the end of Victoria's reign (1901), "the inequality of nations was as profound as the inequality of classes." In a surprising triumph of pessimism over the widely known achievements of several former Third World countries such as Japan and South Korea, Davis informs us that by the start of the 20th century, "Humanity had been irrevocably divided."

In support of this thesis, Davis devotes six chapters to late-19th-century famines in India, China, Egypt, Africa, and Brazil. Most of these were caused by drought. For reasons not easy to follow, Davis keeps referring in these chapters to the possible connection of El Niño to the droughts. (Davis defines El Niño not as the familiar Christmastime warm currents off the coast of Ecuador and Peru, but as the warm extreme of a Pacific Basin–wide oscillation in air mass and ocean temperature known as ENSO, for El Niño Southern Oscillation.) Davis finally offers a more focused discussion of the El Niño literature in two subsequent chapters.

But the connection between 19th-century weather and El Niño's oscillations back and forth in the Pacific suffers from lack of records and uncertainties about El Niño's chronology, which Davis candidly outlines in the concluding pages of Chapter 8. Such lack of proof might have led a skeptic to leave the subject to further necessary research.

Davis quite rightly argues that by the 1870s, advances in transportation had made the death toll from famines mainly a function of the adequacy of government and private relief, not an inevitable consequence of natural disaster. El Niño's oscillations had no conceivable connection to the government failures that turned the "Victorian" famines into mass killers, other than providing an opportunity for the exercise of governmental misjudgment and incompetence. Weather was surely not under British management. Under the circumstances, the issue seems a dispensable digression from the book's main argument—perhaps it was simply research the author could not bear to omit.

Chapter 9, titled "The Origins of the Third World," argues that the rise of commercial agriculture increased the vulnerability of India's villages to famine: "The forcible incorporation of smallholder pro-

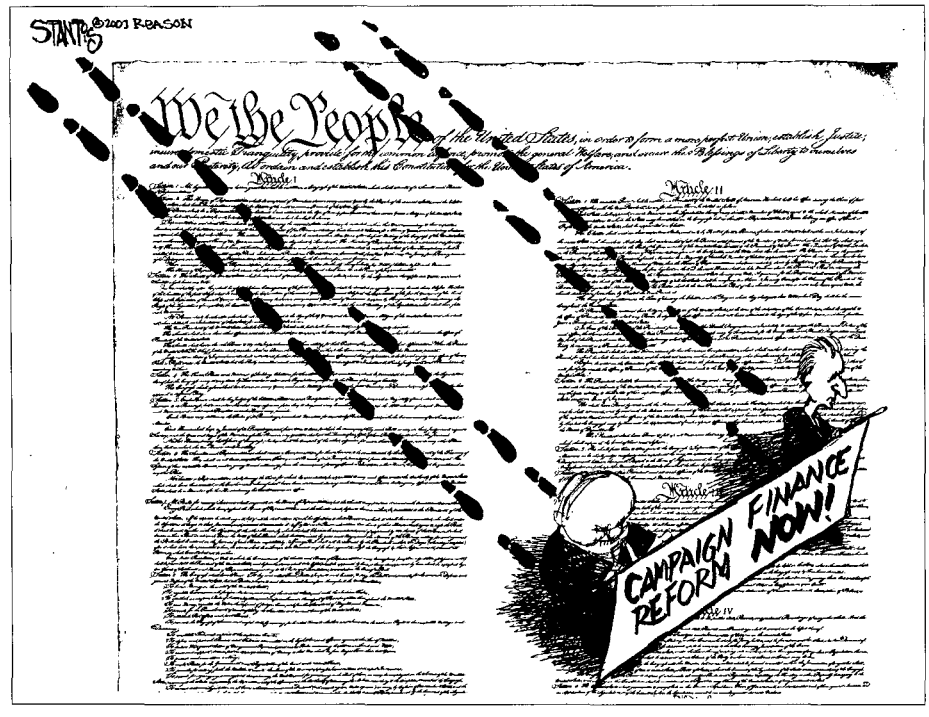
duction into commodity and financial circuits controlled from overseas tended to undermine traditional food security." This theme is expanded in the chapters for India, China, and Brazil, with emphasis on the adverse effects on the Asiatic poor of British tariff policy, the gold standard, the sale of Bengal opium to China, and terms of trade.

To evaluate the claim that British imperialism, political and economic, explains the development gap, we need to start by recognizing that the gap was a very long time coming. The living standards of Western European farmers and other humble folk began to improve about A.D. 1000 at a rate fast enough to be noticeable from century to century, though not from decade to decade. Asian and Islamic farmers were probably living better than Europeans in 1000, but they did not experience a comparable, long-sustained improvement during the second millennium. At some much-debated time between 1450 and 1820, European living standards inched past Asian and Asiatic standards.

Then, about 1820, as Europe settled down from the Napoleonic wars, the European rate of improvement turned up sharply, which, in this context, means an increase from an average rise in per capita real national income from about 0.3 percent a year to around 1.5 percent a year. There was no similar upturn in the Third World, and the wonders of compounding growth over 180 years produced the present large and growing gap.

Thus the gap "shaped decisively," according to Davis, in the last quarter of the 19th century, had begun to widen unmistakably by 1820, more than half a century earlier. It continued to widen through the late Victorian period, the decades until India gained its independence in 1947, and still continues to expand more than half a century later.

A large part of the present development gap is attributable to rural poverty, particularly in India and China, and Davis is right to stress rural poverty and its causes. Here, too, the roots of poverty are ancient. The limitations of agricultural technology before the 19th century required that the great majority of the people of all civilizations be farmers. Over a period of more than 5,000 years, wherever farmers produced a surplus of food over their own needs, the urban elites, possessing military power, could be counted on to take advantage of their power to appropriate their food supply and in the process reduce the farmers to penury.



SCOTT STANTIS

Economic historian Alan Macfarlane recounts the emergence of a viable agriculture of family farms in England (in 1978's *The Origins of English Individualism*). He describes the history of peasant societies as a crisis cycle of population expansion, followed by a reduction in population through war, famine, or disease.

Modern economic development literature is concerned with two very different types of growth, not always clearly separated. One type roughly parallels the upswings in Macfarlane's "crisis" cycles, when societies recovering from disaster repopulate themselves and, one hopes, experience a recovery in living standards. This is a painless and ever-welcome kind of growth, in that it consists in a moderate rise in per capita output of much the same goods by people in the same occupations as before, without severely discommoding anybody. Significant technological advances are welcome but by no means required. The peaks are remembered as "Golden Ages," though they are golden only in comparison to the troughs. By the standard of modern growth economies, the golden ages were marked by short life expectancy, high infant-death rates, deficient nutrition, dwarfed human beings, coerced religious conformism, negligible medical care, widespread illiteracy, little or no vertical economic mobility, and despotic government. That is what made a fall from a Golden Age truly a disaster.

The other type of growth is the one that produced the $22,640 side of the development gap. This type of growth is not linked to any historical cycles and is uniquely Western European in origin. In contrast to Third World countries, growth economies moved from labor-intensive production to capital-intensive and energy-intensive production. The result was an immense increase in physical output. Labor did not respond with a fully off-setting rise in the birth rate, as Malthus had predicted, and the effect was a shift to economies in which labor is scarce and expensive and capital and energy are abundant and cheap—though that is not the way populists usually perceive them.

Western European growth and its $22,640 incomes depended critically upon a rate of scientific and technological advance more rapid than any experienced anywhere before 1600. It entailed a slow but complete change in society and almost everybody's role in it. For example, advances in agricultural technology have

go to 75

I Dreamed I Saw Joey Ramone Last Night

The P.C. eulogizing of a punk rocker

By Nick Gillespie and Brian Doherty

The most famous case of body-snatching in the history of rock 'n' roll is that of Gram Parsons, the highly regarded singer and guitarist who played with the Byrds and the Flying Burrito Brothers and influenced the Rolling Stones and the Eagles, among others. Parsons, one of the fathers of country-rock, died from a drug overdose in 1973. Supposedly in fulfillment of the performer's dying wish, Parsons' road manager and a friend stole the corpse from Los Angeles, drove it to Joshua Tree National Monument, and tried (unsuccessfully) to cremate it.

A similar, if less literal, bit of grave robbing occurred soon after punk rocker Joey Ramone (nee Jeffrey Hyman) died from lymphatic cancer on April 15, at the age of 49. This time, it was not a body but a band's musical legacy that got boosted.

Joey Ramone's beautifully weird-looking body had barely gone cold when he was eulogized not simply as the vocalist for arguably the most influential band of the past 30 years but as a politically engaged performer whose progressive bona fides were every bit as undeniable as those of Sting, Bono, and Barbra Streisand. Indeed, within hours of shuffling off his mortal coil, Joey Ramone, known for singing songs such as "Cretin Hop" and "Teenage Lobotomy," had been resurrected as Joe Hill.

Forget that the Ramones made their reputation with songs that sketched an irresistible world filled with dumb and often explicitly anti-social fun. (The uninitiated can get a good sense of this from the titles of some of the band's signature tunes, which include "Beat On the Brat," "Now I Wanna Sniff Some Glue," "You're Gonna Kill That Girl," "Gimme Gimme Shock Treatment," and "I Wanna Be Sedated.")

For some righteously left-wing critics, such anarchic, aimless pleasure must always, in the final analysis, give way to something deeper, something more *serious*. Ironically, it must give way to precisely the sort of pedantically earnest musical messaging that helped provoke punk rock—and the Ramones—into existence in the first place.

In death, Joey Ramone became "the punk who did not hide his politics," according to *The Nation*'s Web site, a latter-day, leather-clad Pete Seeger dedicated to exposing the synonymous evils of Reaganism and apartheid. Writer John Nichols sloughed over the Ramones' early comic, *Hogan's Heroes*–level fixation with Nazi themes—evidenced by songs such as "Blitzkrieg Bop" and "Today Your Love, Tomorrow the World," which features the line "I'm a shock trooper in a stupor...I'm a Nazi schatze." Instead Nichols zeroed in on the Ramone's *real* legacy. Joey was, he wrote, "more than just a groundbreaking rocker. He was, as well, an artist with a conscience."

In death, Joey Ramone became a latter-day, leather-clad Pete Seeger dedicated to exposing the synonymous evils of Reaganism and apartheid.

Nichols' two main examples of Joey Ramone's *engagement* are both from 1985. The first is the Ramones' song "Bonzo Goes to Bitburg," which rightly mocked Ronald Reagan's notorious visit to a German cemetery in which SS members were buried. (Originally released as a single in England, the song was retitled "My Brain Is Hanging Upside Down," with "Bonzo Goes to Bitburg" reduced to a parenthetical subtitle when it appeared on the 1986 LP *Animal Boy*. The change was made to assuage bandmate Johnny Ramone, who considered Reagan "the best president of our lifetime.")

The second example of Joey's dedication to political action was his participation in the protest single and video, "Sun City," which featured an all-star cast (Bruce Springsteen, Bob Dylan, Run-DMC) and attacked musicians who played at the famous segregated resort in Bophuthatswana. *Salon*'s arts and entertainment editor, Bill Wyman, referenced those same events in his obit, even going so far as dubbing "Bonzo Goes to Bitburg" "the group's greatest song and [Joey's] greatest vocal performance."

Wyman merely resorts to exaggeration and overstatement, for few Ramones fans peg "Bonzo" as being anywhere near the band's definitive number. In his rush to enlist Joey Ramone as a comrade in arms, Nichols actually manages to misquote the song at the center of his piece, writing that "Bonzo" includes the line, "If there's one thing that makes me sick, it's when someone hides their politics." "Clearly," he concludes, "Ramone was no longer hiding his politics."

Joey actually sings, "If there's one thing that makes me sick, it's when someone tries to hide *behind* politics," a crucial difference that seems to indict Nichols for his own heavyhanded take on the Ramones. One is only left wondering why Nichols didn't praise the band's wry girl-group homage, "The KKK Took My Baby Away," as a sign of Joey's progressive stance on race issues.

Both Nichols and Wyman simply ignore that which doesn't fit into their take, such as the band's popular and irreverent 1986 video for "Something to Believe In." The video parodies charity sing-alongs such as "Hands Across America"

and even "Sun City" with a faux event called "Hands Across Your Face."

The Ramones' most characteristically absurdist take on political action can be found in their song "Commando," which posits four orders that soldiers from "old Hanoi to East Berlin" must follow: "First rule is: The laws of Germany. Second rule is: Be nice to mommy. Third rule is: Don't talk to commies. Fourth rule is: Eat kosher salamis." Now *there's* an agenda.

The attempt to appropriate cultural figures for political ends is nothing new. But it remains a dreary exercise at best, reducing complex and often joyous creative expression to grim simplicity.

In the case of Joey Ramone and the Ramones, it seems particularly desperate and off-base. Even granting for the sake of argument that Joey believed fervently in full public financing of elections, a $10 minimum wage, and the vanguard of the proletariat, his band's enduring appeal had nada to do with a clichéd progressive political agenda.

The Ramones, who cut their first LP in 1976 and broke up 20 years and more than a dozens albums later, were avatars of self-expression, taking and giving pleasure by creating the music they wanted to hear even before they knew how to play their instruments or write songs.

Along with that came a vividly antinomian attitude toward authority and a remarkably inclusive attitude toward misfits of all stripes. (One of their best-known songs, "Pinhead," openly borrows a line—"We accept you, we accept you, one of us, one of us"—from Tod Browning's 1932 film *Freaks.*) The band's example inspired thousands of imitators who took off in their own idiosyncratic, highly personal directions.

There's a political implication to such activity, to be sure, but it has precious little to do with what some commentators insisted Joey Ramone ought to be remembered for.

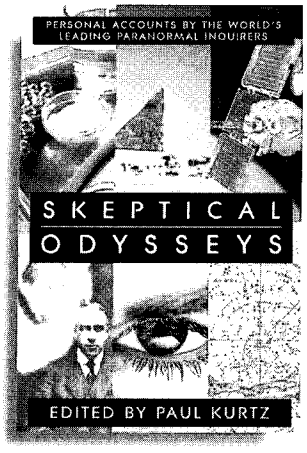
Nick Gillespie (gillespie@reason.com) is REASON*'s editor-in-chief. Brian Doherty (bdoherty@reason.com) is a* REASON *associate editor and owner of Cherry Smash Records.*

reduced the current proportion of the American population engaged in agriculture from 44 percent in 1880 to 2 percent currently. The whole pattern of economic output changed, not once but continuously. Over the past 200 years, economically advancing societies transformed themselves from rural to urban to suburban, from despotic to democratic, from work-energy supplied by wind, waterwheels, humans, horses, and oxen to work-energy supplied by steam and other mechanical sources, and from majority illiteracy to nearly universal literacy. They transformed themselves also by repeated radical physical changes in their infrastructures, housing, and stocks of capital goods. The West's numerically dominant "peasantries" faded into small, government-subsidized minorities practicing capital-intensive and land-intensive agriculture.

The simplest strategy for Third World countries that want to become growth economies is to imitate, to the best of their ability, the Western institutions and practices that appear to have played a part in growth. The feasibility of doing so has been demonstrated by a number of countries that deliberately imitated Western means to economic growth and are, by and large, well on their way to imitating Western results.

In the process they have overcome most of the differences of geography, history, politics, culture, and experiences with war, foreign conquest, and natural disaster that have been advanced as reasons why progress was impossible. Even in China and India, the per capita income of urban dwellers is rising, and the South Koreans, whose colonial experience at the hands of the Japanese was exceptionally degrading, shine in contrast to the leftist famine culture of their fellow Koreans to the north.

Given the existence of an obvious and tested development strategy, there are at least two reasons for the long delay in closing the development gap. One is the intrinsic difficulty of shifting the huge rural populations of China and India to a land- and capital-intensive agriculture. The other is that objections to some or all of the institutional means of Western economic growth are part of the working ideologies of influential people in both Western and



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Edited by Paul Kurtz

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Philip D. Harvey

Foreword by Nadine Strossen, President, ACLU

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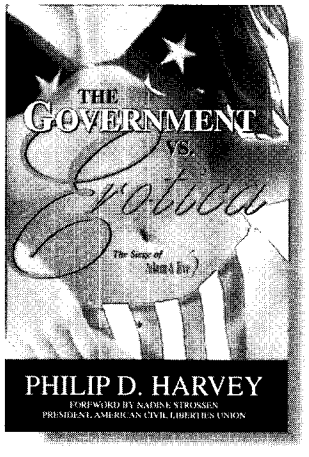

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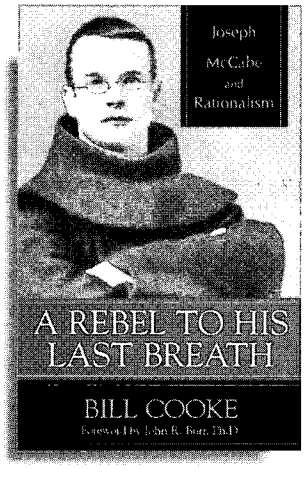

A REBEL TO HIS LAST BREATH

Joseph McCabe and Rationalism

Bill Cooke

Foreword by John R. Burr, Ph.D.

This is the first biography of Joseph McCabe (1867–1955), a former Catholic priest who became one of the best-known champions and a prolific popularizer of freethought and rationalism in the first half of the 20th century. With unswerving intellectual honesty McCabe tackled the most controversial issues of the modern era: evolution, biblical errancy, belief in God, immortality, spiritualism, capitalism vs. socialism, women's rights, and many other topics. McCabe's gift for rational inquiry, respect for scientific evidence, and lucid, no-nonsense prose are still relevant and refreshing.

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Third World polities. A faithful soldier of the left like Mike Davis should have no difficulty understanding why Asian and African societies did not quickly borrow the economic institutions that produced the gap. They agreed with neo-Marxist, anti–free market, anti-individualist ideology similar to his.

Russia was perhaps the first deliberate cross-cultural imitator, beginning with Peter the Great's Western European tour of 1697–8. The next, Japan, began its effort 161 years later, after 1859. The Chinese were much slower to decide to emulate "foreign devils" (if indeed they ever made such a conscious decision), and India may not have reached the required consensus

The simplest strategy for Third World countries that want to become growth economies is to imitate, to the best of their ability, Western institutions and practices.

until 30 years after Gandhi's death. In both China and India, even after a certain consensus to "modernize" emerged, the beginnings of success were postponed by experiments with socialism, so that the effective adoption, even *sub silentio*, of a policy of borrowing Western economic institutions can be dated as late as 1991, when the implosion of the Soviet system clarified a good many minds.

Islam, Africa, and Latin America each have their own stories, but in some countries (fortunately a declining number) straightforward attempts to follow the Western path to the pot of gold at the end of the rainbow are either very recent or yet to begin. Everybody wants economic growth, but nobody wants to give up old ways that offer high pay, status, and power.

That said, there is no reason to be optimistic about an early solution to the immense problem of Third World rural

poverty, notably in China and India, but for reasons far from Davis' version of Victorian economic and political history. In India and China, as well as some other Third World economies, farmland has been scarce and people plentiful. Small farming is a high-risk business, in which long-term survival requires farms large enough and productive enough to enable the farmer to set aside adequate reserves for bad years.

If there is a chronic choice between immediate hunger and adequate reserves, the reserves will likely suffer, whether they are in cash or kind, or set family-by-family or by a village patriarch or commissar. The communal village visualized by Davis is not and never was a solution for the real system fault: too little land for too many people.

Converting a labor-intensive agriculture to a land- and capital-intensive agriculture, with far fewer workers but a much higher marginal product, is arithmetically impossible without a reduction in the supply of agricultural labor. The desirability of shifting rural workers into urban employment is limited by the depressing effects of an excess supply of labor on urban labor markets.

Europe went through such a shift, and wage rates did not clearly escape its effects until well into the 20th century. Birth rates can change, as is illustrated by lower birth rates in cities almost everywhere. But the circumstances that make large families appear highly desirable in rural areas are not easily changed, and policy attempts to reduce birth rates lead to intractable, highly emotional conflicts over religion, sociology, morality, and politics. Those conflicts are unlikely to be resolved by discovering an obligation in urbanites or foreigners to subsidize Third World rural poverty indefinitely. The Indian and Chinese farmers most immediately concerned may not think a solution that ends their way of life is worth the cost.

L. E. Birdzell Jr. (lebirdzelljr@home.com), a lawyer, is co-author with Nathan Rosenberg of How the West Grew Rich: The Economic Transformation of the Industrial World *(1986).*

Southern Nationalism

Exploring the roots of the Civil War

By Charles Oliver

Apart from the American Revolution itself, the Civil War is the event that has most defined the United States. More than 130 years later, we still argue over its causes, effects, and meaning. Some argue that the main, though not only, cause of the war was slavery. Others insist that the war was provoked by an overreaching federal government that refused to recognize the Southern states' rights.

This debate isn't merely historical. As could be gleaned from the flaps surrounding statements by Attorney General John Ashcroft and Interior Secretary Gale Norton during their confirmation periods, issues stemming from the Civil War go to the heart of many current political debates: What is the proper role of the federal government? Is a strong national government the best guarantor of rights against local despots? Or do state governments stand as a bulwark against federal tyranny? And just what rights are these governments to protect? Those of the individual or those of society? Such matters are far from settled.

When in the Course of Human Events: Arguing the Case for Southern Secession, by Charles Adams, New York: Rowman & Littlefield Publishers, 255 pages, $24.95

The Counterrevolution of Slavery: Politics and Ideology in Antebellum South Carolina, by Manisha Sinha, Chapel Hill: The University of North Carolina Press, 362 pages, $19.95

So why was the Civil War fought? That seems a simple enough question to answer: Just look at what those fighting the war had to say. If we do that, the lines are clear. Southern leaders said they were fighting to preserve slavery. Abraham Lincoln said the North fought to preserve the Union, and later, to end slavery.

Some can't accept such simple answers. Among them is Charles Adams. Given Adams' other books, which include *For Good and Evil: The Impact of Taxes on the Course of Civilization* and *Those Dirty Rotten Taxes: The Tax Revolts that Built America*, it isn't surprising that he sees the Civil War as a fight about taxes, specifically tariffs.

In *When in the Course of Human Events*, he argues that the war had nothing to do with slavery or union. Rather, it was entirely about tariffs, which the South hated. The tariff not only drove up the price of the manufactured goods that agrarian Southerners bought, it invited other countries to enact their own levies on Southern cotton. In this telling, Lincoln, and the North, wanted more than anything to raise tariffs, both to support a public works agenda and to protect Northern goods from competition with imports.

Openly partisan to the South, Adams believes that the Civil War truly was one of Northern aggression. He believes that the Southern states had the right to secede and he believes that the war's true legacy is the centralization of power in Washington and the deification of the "tyrant" Abraham Lincoln. To this end, he collects all the damaging evidence he can find against Lincoln and the North. And he omits things that might tarnish his image of the South as a small-government wonderland.

Thus, we hear of Lincoln's use of federal troops to make sure that Maryland didn't secede. We don't learn that Confederate troops occupied eastern Tennessee to keep it from splitting from the rest of the state. Adams tells us of Union Gen. William Sherman's actions against civilians, which he persuasively argues were war crimes. But he doesn't tell us of Confederate troops capturing free blacks in Pennsylvania and sending them south to slavery. Nor does he mention the Confederate policy of killing captured black Union

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Paper Tigers

Page slaves pressed by history's volume

By Tim Cavanaugh

Every educated person wants to be known as a "book lover." Hence, to be indifferent to, much less openly disagree with, Nicholson Baker's *Double Fold: Libraries and the Assault on Paper* (Random House, $25.95) is to declare yourself an illiterate, an enemy of history, a cretin of the first order. No wonder *Double Fold* has met with grateful hosannas proclaiming its author "a hero to book lovers everywhere" (as the *San Francisco Chronicle* put it in a representative rave review).

Acclaimed novelist Baker (*The Mezzanine, Room Temperature*) argues that the loss of a book, of a magazine, even of a late-morning edition of a newspaper, constitutes a terrible, irreparable loss to our cultural heritage. *Double Fold* posits that a vast campaign by the nation's biggest libraries, pushed in large part by CIA and defense industry veterans turned library Strangeloves, put irrational faith in microfilm and miniaturizing technologies. Not satisfied with microfilming, the mad scientists have in most cases destroyed the originals after copying. The result: Libraries have slashed and burned vast tracts of paper books and periodicals, destroying a massive part of America's cultural wealth.

At its best, the book is an effective exposé of bureaucratic mismanagement. Baker demonstrates that the fragility of paper was exaggerated and that the technophiles ended up spending millions more than they would have by simply building bigger storage facilities for paper products. In the process, priceless gems—a full-color run of a Joseph Pulitzer paper here, some off-the-record Nixon comments there—have been lost to eternity.

At its worst, *Double Fold* allows its polemical purposes to overshadow the complex relationship between preservation of originals and new, often worse, technologies for storage and display. As poor (and self-destructing) as microfilm is, it provides more people with more access to the past than fastidious preservation of originals could allow. Baker's hectoring tone also precludes pondering the intricate politics of preservation in a world where we can never save everything and top-down organizations decide which parts of our heritage even get a chance at being preserved.

While it's a relief to see Baker getting away from the fussbudget pornography of his recent novels *Vox* and *The Fermata*, his genius for passionately detailed, morally complex descriptive writing rarely appears in this jeremiad. When it does, it is used mainly to doggedly support his thesis. Consider this moment, in which Baker describes the discrepancies between the hard-copy and film versions of an 1899 *Chicago Tribune.*

> The early edition of the day's paper, writes Baker, included "a long account of the heroic efforts of Henry Nehf, a druggist and volunteer fireman from Terre Haute, Indiana, whose body had been found in the remains of a burned and collapsed building, his right arm over his head, as if to fend off the ceiling, and his left around the nozzle of a fire hose. When Nehf had disappeared twelve days earlier, he had at first been suspected of starting the fire or otherwise being on a 'debauch'; now, he was a hero. Nehf's watch was stopped at 6:08. 'It is not an unreasonable conjecture that the falling debris which stopped the watch caused his death, as the watch was in a vest pocket over his chest, which was crushed in,' wrote the unflinching reporter. Later that same day, however, for the edition that was later microfilmed, the article was drastically shortened to make room for coverage of a gas explosion in Hartford City, Indiana. A world that keeps only microfilm for January 1, 1899, will be a world that does not know that Henry Nehf, martyr druggist, owned a watch that stopped suddenly at 6:08."

Most of us, no doubt, prefer to remember old Nehf the way we remember Brian Piccolo—not for how he died but for how he lived. Sure, Baker's point is charmingly made. But for all the engaging idiosyncrasy of the passage, is it really worth charging public institutions with the task of preserving every edition of every paper ever published?

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Baker seems to think so. And although he himself formed a nonprofit to house a discarded British Library collection, he doesn't believe that private collectors could or should take up the slack in collecting. Why? As he stated in a recent discussion on plastic.com, private collectors' "eccentricity, their discriminatingness" make them unfit for the task. These competing notions—the unec-centric hoarding of eccentric detail—point to something creepy in Baker's worldview. He may not be clinically obsessive-compulsive, but he would have society behave as though it were, fussily refusing to throw anything away.

In the story "Funes the Memorious," Jorge Luis Borges creates a character who is incapable of forgetting even the most minute detail of his life. As a result, he is incapable of thinking, of weighing events or making generalizations. The story is more philosophy than fiction, but it gets to the heart of what some of us find disagreeable in the collector personality—the pointless mania for completeness, the lack of perspective, the stultifying apartments.

Being willing to accept that the past—even the vital, priceless, irreplaceable past—will be largely lost is a sign of mental health.

Societies bent on embalming their heritage can be even worse, fighting endlessly over the Confederate flag and retrying the Alger Hiss case every few months. Being willing to accept that the past—even the vital, priceless, irreplaceable past—will be largely lost is a sign of mental health. After sharing some of Baker's umbrage at the damage wrought by villain librarians, some readers may end up secretly thanking those same folks for having the courage to burn a few books.

Tim Cavanaugh (tim@suck.com) is the editor of suck.com.

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HENRY PAYNE

soldiers. He tells us that Lincoln suspended habeas corpus; he doesn't mention that the Confederacy did also.

Adams argues that Lincoln's call to maintain the Union was at root a call to keep tariff revenues coming in from Southern ports. Lincoln, he notes, had vowed repeatedly during the 1860 presidential campaign that he would act to limit the spread of slavery to the West, but he would not move to end it in the South. Lincoln was firmly committed to an economic program of internal improvements—building infrastructure, in modern terms—that would be paid for through higher tariffs. When the first Southern states seceded just after Lincoln's election, Adams argues, it was to escape these higher taxes. Indeed, even before Lincoln took office, Congress—minus representatives from rebel Southern states—raised tariffs to an average of almost 47 percent, more than doubling the levy on most goods.

Lincoln was determined to collect the tariff on goods flowing into Southern ports, even if locals dragged their heels on collections. That's why the conflict began at South Carolina's Fort Sumter. If the Union kept Sumter, it could control shipping into the key port of Charleston.

Regardless of Northern motives, however, Adams never offers a convincing argument for why the first Southern states left the Union. After all, tariffs were still moderate when they left. And if they'd stayed, their representatives in Congress likely could have blocked the higher tariffs. More to the point, what about slavery? Before and during the war, almost every Southern political leader explicitly said the Southern states seceded to protect slavery.

Perhaps the most famous statement came from Confederate Vice President Alexander H. Stephens. In 1861, in Savannah, Georgia, Stephens bluntly declared that slavery was "the immediate cause of the late rupture and the present revolution." He said the United States had been founded on the false belief that all men are created equal. The Confederacy, in contrast, had been "founded upon exactly the opposite idea; its foundations are laid, its cornerstone rests, upon the great truth that the Negro is not equal to the white man; that slavery, subordination to the superior race, is his natural moral condition."

Well, Adams says in effect, Stephens was lying. Southern leaders knew that people couldn't be roused to fight over something so unappealing as tariffs. So they whipped up a fear that slavery was at stake. "Men will not willingly, and with zeal, die for an economic purpose, but they will die for some 'cause' that has a noble purpose," writes Adams, neglecting to lay out precisely why slavery was so noble. Indeed, Adams' thesis is a completely unsatisfying one. Even if true, he can't answer an important question: Given that

most Southerners didn't own slaves, why was this a more attractive issue for raising fighting passions than tariffs? Why would so many die with "zeal" for a "noble" purpose from which they were excluded? After all, less than one third of Southerners owned slaves.

Manisha Sinha, a historian at the University of Massachusetts, Amherst, shows how slavery did in fact became the rallying cry for the South. In *The Counterrevolution of Slavery: Politics and Ideology in Antebellum South Carolina*, Sinha traces the growth of Southern "nationalism"—that is, a sense of the South as a distinct region with a common culture and set of political priorities that were in conflict with the rest of the U.S.—in the decades leading up to the Civil War. At the heart of that nationalism was slavery. Earlier Southerners such as Thomas Jefferson and George Washington had seen slavery as an evil, albeit one they could not or would not abolish. Their descendants, Sinha writes, articulated defenses of "slavery as a benevolent and harmonious system that allayed the conflict between capital and labor, as a guarantor of social and political stability, as the engine of economic prosperity, as a result of the allegedly natural racial differences, and as a divinely sanctioned institution."

This "Southern thought" was antagonistic to classical liberalism, capitalism, industrialism, and democracy. Indeed, it saw itself in opposition to the very ideals of the American Revolution. Hence, Southern apologist George Fitzhugh said the "Southern Revolution of 1861" was a "solemn protest against the doctrines of natural liberty, human equality and the social contracts as taught by Locke and the American sages of 1776, and an equally solemn protest against the doctrines of Adam Smith, Franklin, Say and Tom Paine and the rest of the infidel, political economists, who maintain that the world is too much governed." Fitzhugh was hardly alone: Journalists, ministers, politicians, and academics from across the South contributed to this body of thought.

Southern thinkers savaged the Declaration of Independence. All men are not created equal, they said. And natural rights were just a myth. "Nothing can be more unfounded and false," said John C. Calhoun. Southern nationalists didn't just believe that blacks were unequal to whites. Many Southern ideologues argued for a hierarchical polity—with the big plantation owners at the top, slaves at the bottom and other whites in between. Society is superior to the individual, they said. Sinha doesn't say much about how Southerners who weren't at the top of the ladder felt about the system. But clearly, they jealously guarded their rank and privileges against those below them, even if they chafed at the dominance of those above .

As its subtitle suggests, *The Counterrevolution of Slavery* shows how and why South Carolinians took the lead in creating this Southern identity based on slavery. South Carolina differed from many other slave states in two key ways: The majority of its white citizens owned

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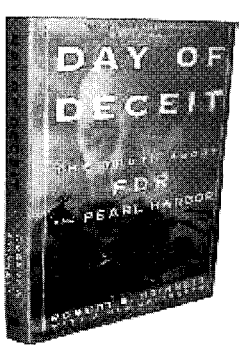

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slaves, and by the 1820s, slaves outnumbered whites. Sinha notes that no one, North or South, was surprised that South Carolina was the first to secede. "No human being ever was, now is, or ever will be born free," said South Carolinian Thomas Cooper. Individuals, he argued, only have such rights and liberties as society wishes to give them. And in a healthy society, true liberty will be restricted to a relative few.

Some Southern ideologues wanted to establish a hereditary aristocracy. And antebellum South Carolina came closest to that ideal. By the time of the war, most white men could vote, but most political offices had large property requirements. Indeed, slave ownership was a prerequisite for holding some offices. And many key offices, such as governor, were not elected at all, but appointed by the legislature. In fact, political power in the state was highly centralized in the legislature, and political districts were drawn to maximize the power of the big plantation owners. Sinha quotes one observer who noted in 1861 the irony that those who claimed to want to limit the centralization of power in Washington "have been at the same time strongly inclined toward centralization and consolidation of power within their respective States."

To be sure, Southern ideologues sometimes disagreed among themselves, but these differences were rarely large. For instance, many wanted to reopen the Atlantic slave trade. Others opposed this move, but not on moral grounds. Those who opposed reopening the trade feared that a flood of new slaves would reduce the value of their own property. Opponents also argued that bringing in large numbers of Africans not conditioned to slavery could provoke slave rebellions or even provoke a war with Great Britain, which had ended its slave trade in 1807. (When the Confederacy was formed, it did refuse to reopen the slave trade for that latter reason. That wasn't enough to bring an alliance between the two nations, though the British remained on better terms with the South than with the North.)

Most intriguingly, Sinha convincingly argues that Southern "states' rights" ideology was formed with the express purpose of defending slavery. Indeed, antebellum Southerners were quick to use national power, at the expense of states' rights, to defend slavery. From 1789 to 1860, the South dominated the national government, and the "Slave Power," as critics called it, readily used the federal government to protect and advance its interests.

The most obvious example of those efforts was the Fugitive Slave Act. Historian James McPherson calls that 1850 law the strongest manifestation of national power to that point in U.S. history. It extended the long arm of the federal government into Northern states—through marshals and the army—to recover alleged escaped slaves for their owners. The national government advanced slave interests in other ways, too. The Slave Power was among the most hawkish elements of the national government, and every war that America fought between the Revolution and the Civil War was waged, at least in part, to expand slave territory or to deprive escaped slaves of places to flee.

Southern apologist George Fitzhugh called secession a "protest against the doctrines of natural liberty...[and] Adam Smith."

Sinha shows that even as Southerners came to see slavery as a moral good, they felt increasingly embattled and fearful. And with good reason: European nations had abolished slavery and British ships prowled the seas enforcing a ban on the slave trade. In the North, the abolitionist movement was growing in popularity and power. The successful slave revolt in Haiti in 1791, the attempted slave uprising led by Nat Turner (1831), and John Brown's raid (1859) reminded them just how tenuous their hold on power could be.

Charles Adams says that Southern fears that Lincoln's election foreshadowed the end of slavery were "irrational" because tariffs and slavery were separate issues. After all, Lincoln vowed not to move against slavery in the South, and many Northerners didn't wish to press the issue. But Sinha shows how slavery and the tariff were closely intertwined in the minds of most Southerners. Southerners saw high tariffs as a Northern plot against Southern agriculture and therefore against slavery. Southern fears, she argues, may have been exaggerated, but they were far from irrational.

Secession, then, was an attempt by the slave-owning class to preserve its regional hegemony. At the very least, Lincoln's election meant the Slave Power could no longer use the national government to advance its interests. Further, having a president who firmly stated that slavery was immoral would embolden Northern abolitionists. If the South remained in the U.S., Northerners might feel more free to defy the Fugitive Slave Act, despite Lincoln's vow to enforce it. And more John Browns might come South to provoke slave uprisings.

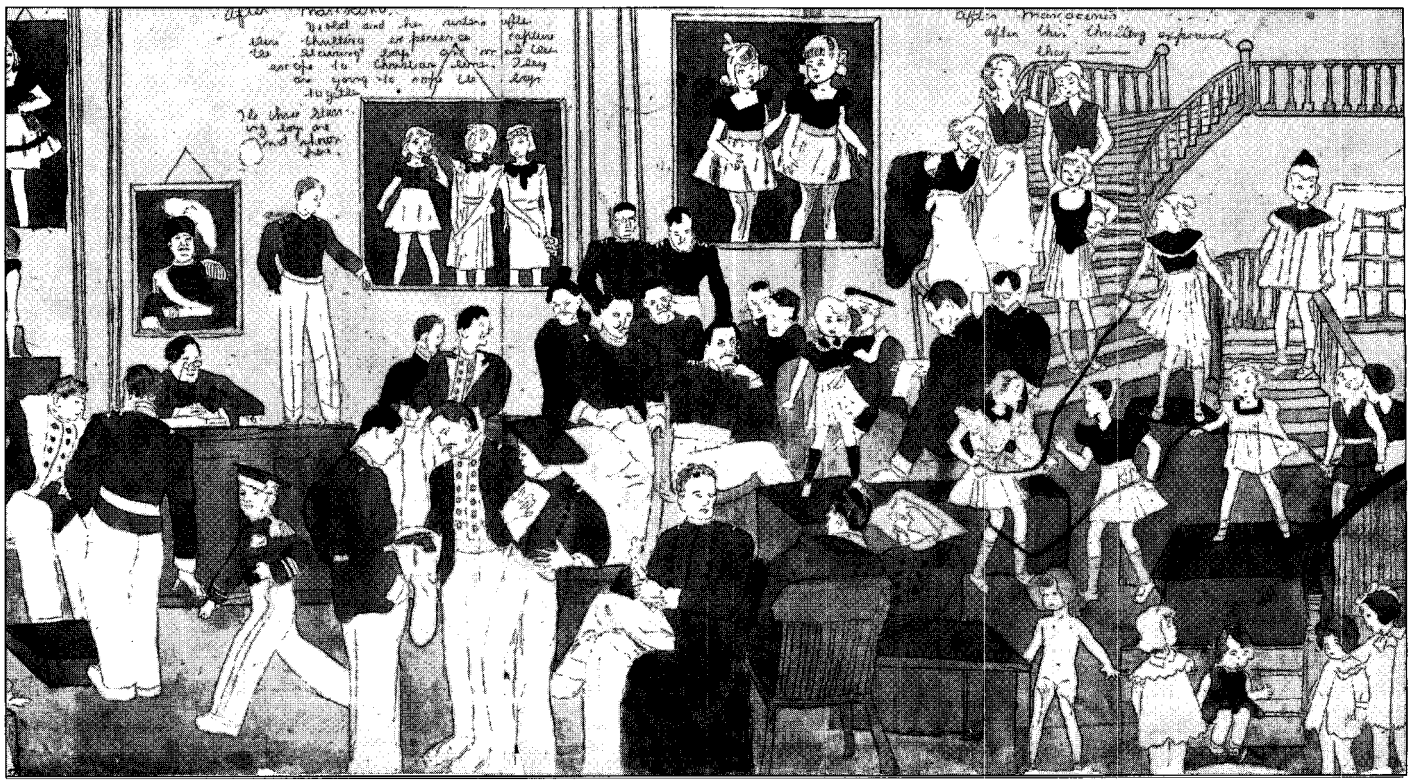
Further, a thriving Republican Party might attract non-slaveholding Southerners—who were coming to resent the power wielded by slave owners, if not slavery itself. Slave owners thought they could keep the Republicans from playing on those conflicts by leaving the Union. In fact, those tensions exploded during the Civil War.

In western Virginia, the mostly non-slaveholding population had long resented a political system that favored slave owners. When Virginia seceded, the western counties refused to join, eventually forming the state of West Virginia. And in western North Carolina, east Tennessee, and parts of north Georgia, initial enthusiasm for secession quickly soured. These were areas in which few slaves were owned, and they became dangerous places for Confederate forces and their sympathizers to tread. Union sympathizers waged guerrilla war there, fighting a civil war within the Civil War.

"Slave society," Sinha writes, "could not withstand even a mildly antislavery president, who could effectively challenge the regional mastery of southern planters and slaveholders without ever abolishing slavery." The actions the slave-holding class took to defend its privilege ended up hastening its demise.

Contributing Editor Charles Oliver (c-oliver@usa.net) writes for Investor's Business Daily.

Outside In



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Here's a detail from "After Marcocina," by Henry Darger (1892–1973), currently one of the art world's hottest stars. Darger's bizarre works will inaugurate Manhattan's new Museum of American Folk Art in December, further mainstreaming so-called Outsider Art. That exploding category includes work, often naïve, by self-taught "eccentrics." Darger's watercolors have sold for as much as $60,000 and have been widely displayed (this one is held by the Smithsonian). There's an unpublished 1,200-page study of Darger by a Princeton scholar, and Hollywood is mulling over a biopic.

Darger is in many ways the perfect demented outsider. A reclusive obsessive who talked to himself in different voices, his mural-size paintings illustrate a sadistic 15,000-page fantasy about a war between soldiers and child hermaphrodites, *The Story of the Vivian Girls*. The text and images were discovered by Darger's Chicago landlord, along with hundreds of Pepto-Bismol bottles and balls of string, after Darger left. He'd otherwise been known for attending Mass all day, and rummaging through garbage.

Outsider Art has a long history, often associated with mental patients. Its 19th century "discovery" sprang from the Romantic obsession with locating "genius." Most such work has remained beyond the reach of the curator-critic art establishment, but the rise in exhibits and the new museum are evidence of change. Now outsiderism is becoming a style and more: a pose, a bohemian strategy. It's a study in the collapse of tastemaking. The question becomes, are art's gatekeepers letting outsiders in, or themselves out?

—Charles Paul Freund

Conversion of a Standardized Test Skeptic

Caroline M. Hoxby is a professor of economics, Harvard University; distinguished visiting fellow, Hoover Institution; and member, Hoover's Koret Task Force on K–12 Education.

Standardized testing plays an important role in reform, but it is not a silver bullet. A statewide testing program informs parents and legislators and exposes schools that are performing poorly. Unfortunately, most of the gain comes when the information is used not merely to inform debate but to give schools incentives to improve. Parents can create such incentives by exercising school choice informed by test results. Alternatively, a state can create a system of penalties or rewards for schools. School choice, however, is rare, and reward systems are hard to construct.

For years, I was a test skeptic because I thought that the benefits from testing (without accompanying incentives) were too small to justify the cost. I was wrong. Not only had I underestimated how much schools would improve to avoid being exposed, but I had not realized how inexpensive testing is. **Testing is undoubtedly the school reform with the highest ratio of benefits to costs.**

It costs about $2.50 per student to buy, grade, and publish a full battery of standardized tests, such as the Stanford 9 exams. California, for instance, is currently reimbursing districts at the rate of $2.52 per student for the cost of its testing program. Even if states were to pay proctors, the total cost would be under $4.50 per student. Just so that no one quibbles about a few cents here or there, let's round up to $5 per student for annual standardized testing. What else could we get for that amount?

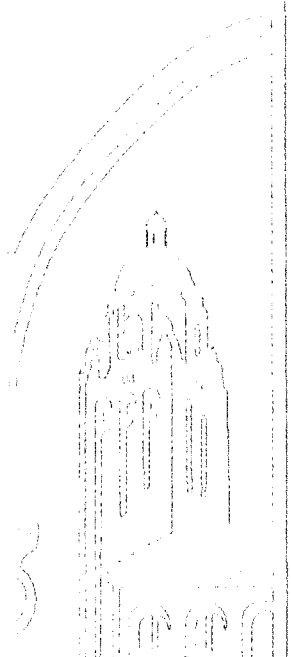
We could reduce class size by two-thousandths of a student. You could raise teacher salaries by 0.24 percent—about one-quarter of 1 percent. While incumbent teachers would not mind a raise, such a tiny increase will not draw talented people into teaching or retain a teacher with good outside job opportunities. You could keep students off the streets and involved in after-school activities for almost two hours *per year,* assuming that the activities are cheap. Although children need after-school supervision and stimulation, part of one afternoon will not help much.

You could lengthen the school year by one-tenth of one day, but will one-tenth of one day really make a difference? You could give every child a college scholarship that would pay for about 1.5 ten-thousandths of the cost of a typical American four-year college education ($32,000). To be fair, the child will be in twelve grades that use standardized tests before he reaches college, so you could add up the cost over those twelve years. The total would be a scholarship worth 1.8 one-thousandths of what a typical education costs.

Because the federal government accounts for about 7 percent of spending on elementary and secondary schools, it is often hard for federal policymakers to affect schools. As a rule, the federal government simply does not have enough money on the table to induce state and district officials to enact policies that they don't already want to enact. Testing, because it is so inexpensive, may be the exception to the rule. The current federal push for testing just may work.

— Caroline M. Hoxby

Paid for by the Hoover Institution, Stanford University.



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